Indonesian Journal of Advocacy and Legal Services
Vol. 8 Issue 2 (2026) 689–748
DOI: https://doi.org/10.15294/ijals.v8i2.48888
Available online since: November 7, 2026

Indonesian Journal of Advocacy & Legal Services
https://journal.unnes.ac.id/journals/ijals/index

Reframing Criminal Justice for Persons with Mental Disorders: A Pancasila-Based Legal Advocacy and Access to Justice Model

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Abstract

The processing of criminal cases of individuals with psychosocial disabilities, and in particular those diagnosed with paranoid schizophrenia, has raised several issues in Indonesia related to the law, ethics, mental health, and human rights. The criminal justice system must establish an individual's criminal responsibility, while ensuring their dignity and protecting victims, and safeguarding of public. This study applies an empirical socio-legal approach to identify the gaps in legal advocacy, psychiatric assessment, and access to justice, rehabilitation, and victim protection. For this empirical research,

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qualitative data were collected in Surakarta and Semarang which are located in Central Java Province of Indonesia. It had been started from January to June 2025, involving 24 participants such as law enforcement and legal professionals, mental health professionals, family members, and social-service actors. Data were collected through semi-structured interviews, field observations, and document review, and were analysed thematically. The results show a dissonance between legal frameworks and the reality of institutional practices, especially in early psychiatric evaluation, inter-agency cooperation, and the continuity of rehabilitation, as well as the support of victims and their families. This study offers a legal advocacy and access to justice model grounded in the Pancasila which integrates legal services, psychiatric evaluation, rehabilitation, and victim protection, as well as the continued responsibility of the state, family, and community. This study contributes to Symbiotic Justice as a relational framework of analysis where justice is construed through the person with psychosocial disability, victim, family, and community, as well as the legal and medical fields and the state. The model seeks to harmonize legal certainty, substantive justice, and dignity with the balance of the rights of persons with disabilities, the public, and victims. Though based on Pancasila, this framework advances global discourse on disability justice, therapeutic jurisprudence, restorative justice, and access to justice.

Keywords

Socio-legal advocacy; Criminal justice; Paranoid schizophrenia; Pancasila justice; Discriminatory law

A. Introduction

The legal and medical management of offenders with severe psychosocial disabilities challenges the criminal justice system, mental

health services, and human rights protection. [1] In some cases, episodes of acute psychosis, severe cognitive or perceptual disturbance, or substantial impairment of behavioural control may require urgent clinical intervention and careful legal assessment. Such circumstances should not, however, be interpreted as evidence that persons with mental disorders are inherently dangerous. General assumptions linking mental illness with violence may reinforce stigma, discourage treatment-seeking, and expose persons with psychosocial disabilities to discriminatory legal and social responses. The key of socio-legal concern is not just the diagnosis; but whether the criminal justice system has adequate procedures in place to identify mental incapacity, provide reasonable accommodation and legal assistance, protect victims, ensure appropriate treatment, and support safe community reintegration. [2]

As social beings, humans depend on collective interaction. This is equally the case for persons with mental disorders. Family involvement is particularly important for the care of persons with mental disorders.[3] Social instabilities are likely happened, both for the individual and the community, if such care are not given. Stigma, anxiety, and a lack of financial resources often compromise the support provided by families. Those cause the neglect of the individual and the social community.[4]

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1 Favril, Louis, Josiah D. Rich, Jake Hard, and Seena Fazel. "Mental and Physical Health Morbidity among People in Prisons: An Umbrella Review." *The Lancet Public Health* 9, no. 4 (April 2024): e250–60. https://doi.org/10.1016/S2468-2667(24)00023-9.

2 Menjívar, Cecilia, and Leydy Diossa-Jiménez. "Blocking the Law from Within: Familyism Ideologies as Obstacles to Legal Protections for Women in El Salvador, Guatemala, Honduras, and Nicaragua." Latin American Research Review 58, no. 3 (2023): 501–18. https://doi.org/10.1017/LAR.2022.72.

3 Tham, Suzanne S., and Phyllis Solomon. "Family Involvement in Routine Services for Individuals With Severe Mental Illness: Scoping Review of Barriers and Strategies." Psychiatric Services (Washington, D.C.) 75, no. 10 (October 2024): 1009–30. https://doi.org/10.1176/APPI.PS.20230452;

4 Kirkbride, James B., Deidre M. Anglin, Ian Colman, Jennifer Dykxhoorn, Peter B. Jones, Praveetha Patalay, Alexandra Pitman, et al. "The Social Determinants of Mental Health and Disorder: Evidence, Prevention and Recommendations." World Psychiatry 23, no. 1 (February 2024): 58–90. https://doi.org/10.1002/WPS.21160.

Punishing someone is a logical follow-up to a crime. Pidana (A criminal punishment) relates to the ancient concept of punishment as inflicting suffering. Adami Chazawi points to punishment as the suffering an offender is made to endure by the state.[5] In the history of law enforcement in Indonesia, punishment has been a form of retribution for wrongdoing by an offender, as well as a means to protect the community from a threat. In this regard, the most common recourse of the criminal justice system in Indonesia is imprisonment.[6] On the other hand, suffocating the system with imprisonment does not provide a solution to crime.

Pancasila is the philosophical and constitutional basis of the Indonesian state. At the level of criminal justice, Pancasila serves as a normative guarantee that law enforcement goes beyond formal legality to uphold humanity, deliberation, social justice, and the human dignity.[7] This is especially true for cases of persons afflicted with mental disorders. In these cases, the justice system must pursue a balance between holding criminal offenders accountable and acknowledging medical vulnerability while safeguarding the interests of the victim and community, and ensuring the state to provide humane legal services.

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[5] Hermien, Nugraheni, and Tri Wiyatini. "Buku Ajar Kesehatan Masyarakat Dalam Determinan Sosial Budaya | Repository." Kesehatan Masyarakat, 2018, 252. https://elibrary.uinsgd.ac.id/detail/hukum-pidana-positif-penghinaan-edisi-revisi/22866.

[6] Surahman, Ansar, Awaluddin, Muja'hidah, Aminuddin Kasim, and Muhammad Rizal. "Retributive Justice in Law Enforcement Against Land Mafia in Indonesia: Perspectives of State Administration Law and Indonesian Criminal Law." International Journal of Criminal Justice Sciences 18, no. 2 (September 2023): 259–74. https://ijcjs.com/menu-script/index.php/ijcjs/article/view/725.

[7] Catherine, Joy, Carina Tambunan1, and Irwan Triadi2. "The Concept of Justice According to Pancasila and Its Relevance to Law Enforcement." Media Hukum Indonesia (MHI) 3, no. 4 (November 2025): 477–86. https://doi.org/10.5281/ZENODO.17610323.

Among these rules is the Criminal Code (KUHP) that regulates criminal offenses and Law Number 17 of 2023 regarding Health.[8] This situation indicates that the implementation of human rights protection has not completely reached sociologically vulnerable groups. Therefore, the existence of Law Number 17 of 2023 concerning Health is crucial as a legal instrument that is expected to provide more comprehensive protection guarantees for mental health rights which are an integral part of human rights.[9]

The United Nations Convention on the Rights of Persons with Disabilities provides an important international standard for legal reform.[10] Since Indonesia has ratified the CRPD through Law No. 19 of 2011, the state has an obligation to harmonize its laws, policies, and legal practices with the principles of equality, non-discrimination, reasonable accommodation, access to justice, and respect for human dignity. In the context of persons with psychosocial disabilities, the CRPD emphasizes that disability does not arise solely from individual impairment, but also from social, legal, institutional, and environmental barriers that restrict full participation in society.[11]

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[8] Fauzan, Ki Agus Rifki, and Dyah Ersita Yustanti. "A Study on Healthcare Delivery, Reproductive Health Rights, Informed Consent, Legal Relationship between Hospitals-Patients-Healthcare Professionals, and the Impact of the New Criminal Code and Criminal Procedure Code." Applied Pharmacology and Pharmaceutical Technology 1, no. 1 (February 2026): 11–19. https://idereach.com/Journal/ index.php/appt/article/view/155.

[9] Nampewo, Zahara, Jennifer Heaven Mike, and Jonathan Wolff. "Respecting, Protecting and Fulfilling the Human Right to Health." *International Journal for Equity in Health 2022 21:1* 21, no. 1 (March 2022): 36-. https://doi.org/ 10.1186/S12939-022-01634-3.

[10] McCusker, Pearse, Lauren Gillespie, Gavin Davidson, Sarah Vicary, and Kevin Stone. "The United Nations Convention on the Rights of Persons with Disabilities and Social Work: Evidence for Impact?" International Journal of Environmental Research and Public Health 20, no. 20 (October 2023): 6927. https://doi.org/ 10.3390/IJERPH20206927/S1.

[11] Eriksen, Siri H., Robyn Grøndahl, and Ann Marit Sæbønes. "On CRDPs and CRPD: Why the Rights of People with Disabilities Are Crucial for Understanding Climate-Resilient Development Pathways." The Lancet Planetary Health 5, no. 12 (December 2021): e929–39. https://doi.org/10.1016/S2542-5196(21)00233-3.

Currently, mental health problems are an issue that should be dealt with carefully. People with mental disorders continue to have problems with social stigma and discrimination, and some have limited access to legal protection.[12, 13]

Hence, criminal justice reform should not only recognize mental incapacity as a doctrinal concern but also try to remove obstacles placed by stigma, lack of psychiatric assessment, legal aid, rehabilitation, and mental health problems.[14, 15] Law No. 8 of 2016 concerning Persons with Disabilities (which supersedes Law No. 4 of 1997) provides a more progressive law based on a holistic human rights-based approach, for persons with disabilities. Particularly, in Indonesian context, following the ratification of the CRPD, there are still significant concerns about the need for a greater understanding of mental disabilities among law enforcement, community-based rehabilitation, and increased involvement of disabled persons in the legal process.[16]

Contemporary social conditions such as economic insecurity, social exclusion, family disruption, rapid technological change, unemployment, and other forms of psychosocial stress may interact

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[12] Thornicroft, Graham, Charlene Sunkel, Akmal Alikhon Aliev, Sue Baker, Elaine Brohan, Rabih el Chammay, Kelly Davies, et al. "The Lancet Commission on Ending Stigma and Discrimination in Mental Health." The Lancet 400, no. 10361 (October 2022): 1438–80. https://doi.org/10.1016/S0140-6736(22)01470-2.

[13] Freeman, Melvyn, and Nkeng Evah Mulutsi. "Law and Policy Are Essential but Insufficient to End Stigma and Discrimination in Mental Health." The Lancet 400, no. 10361 (October 2022): 1387–89. https://doi.org/10.1016/S0140-6736(22)01743-3.

[14] Richards, Jane. "Insanity, Disability and Responsibility: Rethinking Autonomy to Challenge Structural Inequality." *Oxford Journal of Legal Studies* 44, no. 4 (November 2024): 832–59. https://doi.org/10.1093/OJLS/GQAE020.

[15] Levin, Benjamin, and Benjamin Levin. "Criminal Law Exceptionalism." *Virginia Law Review*, January 1, 2022. https://scholar.law.colorado.edu/faculty-articles/1579.

[16] Syuib, M. "Equal Access to Justice for Persons with Disabilities: A Comparative Legal Analysis of Indonesia and Australia under the CPRD." As-Siyasi: Journal of Constitutional Law 5, no. 1 (May 2025): 27–38. https://doi.org/10.24042/AS-SIYASI.V5I1.26855.

with pre-existing biological, psychological, and social vulnerabilities. These stressors should not be understood as direct or sufficient causes of paranoid schizophrenia. Rather, they may influence the severity, recurrence, or management of psychiatric symptoms in susceptible individuals and may also affect access to treatment, family support, housing, employment, and social integration. From a socio-legal perspective, the main concern is therefore how criminal justice, health, social-welfare, and community institutions respond when serious mental-health conditions intersect with alleged criminal conduct.

Internationally, the majority of criminal justice systems face the same challenge of how to handle illegal behaviours committed by individuals whose mental state may substantially impede their ability to be held accountable.[17] Although many systems have legal concepts of insanity, diminished responsibility, or diminished capacity justice, the existence of these principles does not guarantee justice is served. True justice lies in mental health evaluations at the proper stages, the availability of legal resources, the availability of forensic psychiatric resources, and the appropriate measures to ensure community safety from reoffending, and the community is provided with balanced supervision and rehabilitation.[18, 19]

This discrepancy between recognition and practice is evident in cases where the integration of mental health is deficient, and similarly, where mental health justice and social justice are not integrated. In these cases, individuals with mental disorders are treated as either customary criminals in need of medical intervention or as passive

[17] Pakes, Francis. "Comparative Criminal Justice, Fifth Edition." *Comparative Criminal Justice, Fifth Edition*, January 1, 2024, 1–319. https://doi.org/10.4324/ 9781003390688.

[18] Bah, Chernor Hamidu. "Psychiatric Hospitals and the Criminal Justice System Need a Data Tracking System to Help Collect and Record Consistent Client Information across the Two Settings, Thereby Improving Mental Health Outcomes and Reducing Recidivism for Individuals." Preprint, March 16, 2025. https://hdl.handle.net/1773/54535.

[19] Sloas, Lincoln B., and Mariemilia Larrea. "Rethinking Sanctioning for Offenders with Mental Health Issues: A Balanced Justice Approach." American Journal of Criminal Justice 2021 48:1 48, no. 1 (April 2021): 51–64. https://doi.org/10.1007/S12103-021-09620-1.

recipients of care with no means of legal accountability. From both of these perspectives, there are dangerous and harmful outcomes. Hence, a more appropriate model is needed that integrates the various aspects of criminal justice, protection of disabled persons, victim advocacy, mental health, and community reintegration.[20]

The innovative aspect of this research project hinges on the formulation of a model for Pancasila-based advocacy and legal services that speaks to Indonesian legal reforms as well as to international discourses around humane criminal justice. While Pancasila is a national philosophical foundation, the values of humanity, social justice, deliberation, and collective responsibility are consistent with the international principles of disability justice, restorative justice, and therapeutic jurisprudence. Thus, the proposed model is culturally grounded and internationally relevant. The project, therefore, goes beyond describing the Indonesian legal system, using it as a pluralistic, developing, and community-focused legal system, as a background for other frameworks of justice with regard to the management of criminal offenders who have mental illness.

B. International Relevance and Comparative Legal Context

The issue of mental illness and criminality is beyond the borders of Indonesia. It is a problem that brings to light the balance of international law, the respect for the dignity of persons with psychosocial disabilities, the protection of the victim, society safety, and the provision of therapeutic services. The experiences of other legal systems show that dealing with criminality of mental illness moves beyond the borders of punishment, therapeutic jurisprudence,

[20] McCausland, Ruth, Rebecca Reeve, Mindy Sotiri, Lucy Phelan, Vendula Belackova, and Sophie Russell. "Outcomes of a Community Sector Model of Reintegration for People with Complex Needs: A Mixed-Methods Study." Health & Justice 2025 13:1 13, no. 1 (August 2025): 49-. https://doi.org/10.1186/S40352-025-00352-6.

diversion, community care, and legal services advocacy.[21] Furthermore, the instruments of international law, especially the Convention on the Rights of Persons with Disabilities, are the basic framework of evaluation of the criminal justice system of a country in view of the provision of reasonable accommodation, the protection of human rights, and the protection of persons with mental disabilities.[22]

This study locates the Indonesian experience in the global discourses of disability justice, mental health law, and criminal culpability. As it engages Indonesian, Malaysian, and Thai authors, the manuscript deepens its regional and comparative aspects of Southeast Asian legal reforms. Comparative relevance is important because many Southeast Asian countries with developing mental health legal systems face similar challenges. These include stigmatization of mental health, lack collaboration, and inadequate forensic and psychiatric services. These challenges do not include the integrated legal-medical-social systems. Therefore, the Pancasila-based advocacy model is relevant not only for Indonesian legal reform but also provides an opportunity for the advocacy and development of integrated mental health legal systems worldwide.[23]

Indonesian legislation, particularly regarding criminal offenses involving mental disorders, still essentially regulates the inability to be held accountable, as previously stipulated in Article 44 paragraphs (1, 2, and 3) of the Criminal Code. These provisions have now been updated and incorporated into Article 39 of the New Criminal Code. This

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[21] Ouliaris, Calina, and Neeraj Gill. "On the Salience of International Human Rights Frameworks to Forensic Mental Health Services: Bridging Paradigms and Enhancing Care." *Psychiatry, Psychology and Law*, ahead of print, 2026. https://doi.org/10.1080/13218719.2024.2444286.

[22] Tomlin, Jack, and Melanie Jordan. "Strength- and Recovery-Based Approaches in Forensic Mental Health in Late Modernity: Increasingly Incorporating a Human Rights Angle?" Social Theory & Health 2021 20:4 20, no. 4 (July 2021): 398–415. https://doi.org/10.1057/S41285-021-00169-X.

[23] Wedhatami, Bayangsari, Ridwan Arifin, Riska Alkadri, Dewi Puspasari, and Bintang Rafli Ananta. "Advocacy for Social Transformation: Pancasila-Based Legal Education and the Street Law Model in Fostering Nationalism Among Youth in Kenteng Village." *Indonesian Journal of Advocacy and Legal Services* 6, no. 2 (September 2024): 355–82. https://doi.org/10.15294/IJALS.V6I2.29867.

amendment does not alter the essence of the elimination of criminal liability, but rather clarifies the parameters of inability to be held accountable in accordance with scientific developments and the principles of human rights protection. If the act cannot be accounted for by the perpetrator due to a mental disorder or mental condition that causes an inability to understand or control their actions, the judge does not impose a penalty but may instead determine treatment or rehabilitation measures in accordance with the provisions of the New Criminal Code. Therefore, a new approach is needed that is not only theoretical but also contextual and applicable, capable of addressing the challenges of handling criminality by persons with psychosocial disabilities in the era of globalization. This model must be able to integrate the legal and mental systems, including the psychological, social, and moral dimensions of the national values of justice in mental systems, and create a legal domain where a justice system is not only legally correct, but also ethically correct.[24]

This study proposes the concept of integrated justice to describe the ethical and moral dimension, focusing on the rights of the victims, as well as the rights of the detained and the mental health system. Integrated justice must be the result of the collaboration of the legal, social, health, and community systems in a justice system where the process of the legal system is observed.

Accordingly, this study addresses two interrelated research questions:

RQ1. Why do the existing regulatory and institutional arrangements governing criminal cases involving persons with psychosocial disabilities, particularly paranoid schizophrenia, require reform within the Indonesian criminal justice system?

RQ2. How should a Pancasila-based legal advocacy and access-to-justice model be formulated to integrate criminal

[24] Zahra, Salma. "REFORMING INDONESIAN CRIMINAL JUSTICE: INTEGRATING RECIDIVISM RISK ASSESSMENT FOR FAIR AND EFFECTIVE SENTENCING." SSRN Electronic Journal, ahead of print, December 23, 2024. https://doi.org/ 10.2139/SSRN.5190193.

responsibility, psychiatric assessment, disability rights, victim protection, rehabilitation, community participation, and state responsibility?

The former question concerning whether the handling of persons with psychosocial disabilities conforms to Pancasila justice is incorporated into RQ2 because consistency with Pancasila is an evaluative requirement of the proposed model rather than an analytically independent research problem.

Based on these research questions, this study aims to analyse the regulatory and institutional weaknesses in the handling of criminal cases involving persons with psychosocial mental disabilities with paranoid schizophrenia and to formulate an ideal Pancasila-based legal advocacy and access to justice model that integrates criminal responsibility, psychiatric assessment, victim protection, rehabilitation, community supervision, and state responsibility.

To achieve these aims, this study employs a socio-legal research approach with a qualitative design. The socio-legal approach is used because the study examines not only statutory norms and criminal law doctrines concerning persons with psychosocial mental disabilities, but also how these norms are understood, applied, and experienced by legal, medical, family, and community actors. Primary data were collected through semi-structured interviews, field observations and document reviews. The interviewees included law enforcement officers, mental health personnel, family members and community members who have knowledge or experience with persons with psychosocial disabilities. Secondary data were collected from national and international legislation, academic literature, human rights instruments, policy documents, court records, comparative legal sources, and data on criminal responsibility, disability and mental health, victim protection, and access to justice. The data were thematically analysed to identify repeating patterns on legal uncertainty, psychiatric assessment, institutional coordination, protection of victims, rehabilitation, family/community supervision, and Pancasila-based justice. Protecting participants' confidentiality and ethical concerns were ensured by omitting personal data and sensitive health information.

Positioned within the field of legal advocacy and access to justice, this study focuses on the right to legal advocacy for persons with mental disorders. It appreciates the synergistic role of legal institutions and social actors. It recognizes that the empowerment of vulnerable groups protected by the law is achieved through accessible and responsive legal mechanisms.[25]

This study enhances the notion of advocacy in the literature by proposing a Pancasila-based advocacy approach to the integration of mental health, legal reform, and community-based legal services on criminal matters involving persons with mental disorders.

For analytical clarity, this study proposes conceptual framework that captures the integration of Pancasila, advocacy-based legal services, and legal reform with handling criminal cases of persons with mental disorders[26], as illustrated in Figure 1.

[25] Plage, Stefanie, Rebecca E. Olson, Nathalia Costa, Karime Mescouto, Sameera Suleman, Asma Zulfiqar, Jenny Setchell, and Rita Prasad-ildes. "Justice in Health? Studying the Role of Legal Support in a Culturally Responsive Mental Health Service in Australia." *Qualitative Health Research* 35, nos. 4–5 (April 2025): 418–32. https://doi.org/10.1177/10497323251315435.

[26] Asmanda Putri, Kartika, Yuliana Susilawati, Nimas Yuski, and Nur Laili. "Model for Combating Child Criminal Offenses Thru the Development of a Legal Culture Based on Pancasila." Jembatan Hukum : Kajian Ilmu Hukum, Sosial Dan Administrasi Negara 2, no. 4 (December 2025): 94–104. https://doi.org/10.62383/JEMBATAN. V2I4.2772.



FIGURE 1. Conceptual Framework of Pancasila-Based Advocacy and Legal Services for persons with psychosocial disabilities
Source: Authors' own elaboration based on the research findings

Figure 1 shows how the criminal justice system and advocacy-based legal services can be combined in the case of persons with psychosocial disabilities. The framework indicates how legal gaps can be filled in combination with legal and medical social interventions in order to bring justice to a more balanced and humane system.

C. Comparative Legal Perspective on Mental Disorder and Criminal Responsibility

A comparative legal perspective is essential because the issue of criminal responsibility among individuals with mental disorders extends beyond Indonesia. Each legal system has developed a different

framework for dealing with mental incapacity and criminal liability, and the intersection of treatment and public assurance. Although the terminology may differ, the problems remain the same: Should a person who has committed a crime, and at the time was suffering from a serious mental disorder, be punished, treated, controlled, or processed using a combination of legal and medical measures?[27]

In common law, one branch of the insanity defence aims to answer the question of whether the accused can be deemed criminally responsible. Within this framework, the focus is predominantly on whether the accused had an appreciation for the nature of their actions, the quality of their actions, or whether the accused understood that their actions were wrongful. This is a function of the framework emphasizing the individual's capacity at the moment the crime was committed.[28] The framework has been criticized, on the other hand, for its lack of breadth. Specifically, the framework has been criticized for simplifying the complexity of certain psychiatric conditions into a question that bears on the nature of the psychiatric condition and one's level of cognitive function as determined by legal standards.[29]

In civil law systems, greater emphasis is placed on psychiatric expertise and judicial evaluation of mental capacity. Within such systems, the role of experts in psychiatry is of greater importance to the judicial system than in common law systems, and their input is of great importance to courts in resolving whether the accused is of full, diminished, or no liability. Certain legal systems permit the courts to

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[27] Mustafa, Ghulam, M. Phil Scholar, Khalid Mahmood Arif, Associate Professor, and Naila Majeed. "Legal Perspectives on Mental Health: A Comparative Analysis of Islamic Law and International Law in Criminal Justice." *Journal of Applied Linguistics and TESOL (JALT)* 8, no. 2 (June 2025): 2673–86. https://doi.org/10.63878/JALT971.

[28] Ware, Jeffrey B. "Intersection of Neuroscience and Law: The Role of Functional Neuroimaging in the Courtroom." Academic Radiology 32 (September 2025): S139–43. https://doi.org/10.1016/J.ACRA.2024.10.017.

[29] Lulu, Cagla. "The Assessment of Volition in Insanity Cases in Japan." Psychiatry, Psychology and Law, ahead of print, 2025. https://doi.org/10.1080/13218719. 2025.2470635.

impose treatment in lieu of traditional punitive measures.[30] This is particularly applicable to individuals deemed dangerous and who are not fully responsible. This is akin to the Indonesian legal system and Article 39 of the New Criminal Code, whereby individuals who are not deemed responsible for their actions due to a mental disorder are permitted to undergo treatment rather than punishment. The implementation of this legal framework is dependent on the presence of forensic psychiatric facilities as well as the presence of clear procedural anchors that establish a framework for long-term oversight.[31]

Malaysia is a helpful comparison for the region because its criminal law traditions are shaped by the common law and still retain some legal principles regarding the unsoundness of mind. However, the issue concerns more than just the existence of legal provisions. People with mental disorders who are accused need to be able to obtain psychiatric assessments, legal aid, and care in an appropriate facility.[32] Thailand is another useful comparator, given its development of legal and health systems regarding mental disorders. However, the practical treatment of offenders with psychosocial disabilities is still impacted by the gaps in the systems, the stigma surrounding the issue, and the integration of health and justice services. These comparisons illustrate what the rest of the region is facing in terms of the challenges Southeast Asian countries share. There are legal frameworks to protect vulnerable individuals, and

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30 Suartha, I. Dewa Made, I. Dewa Agung Gede Mahardika Martha, and Bagus Hermanto. "Between Mental Illness, Criminal Policy Reform, and Human Rights: Discourse on Reformulation of The Article 44 Indonesia Criminal Code." International Journal of Criminal Justice Sciences 17, no. 1 (November 2022): 1–21. https://ijcjs.com/menu-script/index.php/ijcjs/article/view/447.

31 Kurniawan, Lely Setyawati, Grace Noviana Chandra, Lany Setyawati Kurniawan, Gusti Ayu, Putri Kartika, Luh Nyoman, and Alit Aryani. "The Role of Forensic Psychiatry in Handling Victims and Perpetrators of Domestic Violence in the Indonesian Legal System." *International Journal for Science Review* 2, no. 8 (August 2025). https://doi.org/10.71364/IJFSR.V2I8.72.

32 Andary, Sleiman, Jason Bassani, Gus Burrell, Eliza Cole, Rhiannon Evans, Emily Redman, and Saravana Kumar. "Barriers and Enablers to Access and Utilization of Mental Health Care Services across Southeast Asia: A Preliminary Scoping Review." Asia-Pacific Psychiatry 15, no. 4 (December 2023): e12549. https://doi.org/10.1111/APPY.12549.

their implementation of these frameworks, in most cases, is inadequate.[33]

The situation in Indonesia cannot be viewed in isolation from the rest of Southeast Asia. It also illuminates the other parts of Southeast Asia where there is a lack of integration of mental health care, criminal justice, and community-based disability rehabilitation. In many of the developing countries, it is usually the families that end up providing most of the care for people with mental disorders, while the state offers little organized assistance. If a crime is committed, the laws and services are structured to respond after the fact. Each sector providing the diverse services (e.g., police, legal, health, social, and local government) has fragmented responsibilities, but there is no comprehensive continuum of care from assessment and treatment to victim protection and reintegration.[34]

This analysis indicates that the focus of legal reform cannot be on the textual amendments of provisions within the criminal law. Architectural reform of the institutions is equally important. A criminal justice system that embodies a reformative, humane approach will have a structure that provides screening of mental health issues; mandatory psychiatric evaluations for suspected cases; mental health legal aid; judicial directions to assist in determining mental incapacity; procedural reforms that place the victim at the center; a system of rehabilitation and community supervision; and reintegrative support. If

[33] Fernandez, Aaron. "Mental Health Gaps Characteristics in the Management of Schizophrenia in a Developing Upper Middle-Income South-East Asian Country." Asian Journal of Psychiatry 74 (August 2022): 103170. https://doi.org/ 10.1016/J.AJP.2022.103170.

[34] Loh, Debbie Ann, Emma Plugge, and Marie Claire van Hout. "Continuity of Opioid Substitution Treatment between Prison and Community in Southeast Asia: A Scoping Review." *International Journal of Drug Policy* 112 (February 2023): 103957. https://doi.org/10.1016/J.DRUGPO.2023.103957.

such a system is in place, mental incapacity will be recognized by the law, and access to justice will be created.[35]

The analysis reveals that within the field of international legal scholarship, Indonesia has potential to create a unique model. While many Western-based systems put the emphasis at the level of the individual or the psychiatric assessment, the Pancasila-based system adds a relational tier. In this model, justice is a balancing act, and it incorporates the offender, victim, family, community, and state. In such systems, family and community play a key role in determining the member's responsibility, making this model not a purely reformative model, but a contribution to comparative criminal justice.

D. Literature Review and Theoretical Framework

The examination of the treatment of individuals with mental disorders in the criminal justice system requires an interdisciplinary approach. In the context of criminal law, the principle of responsibility assumes that offenders understand the wrongful nature of their criminal behaviour and have the ability to control their actions.[36] This assumption is problematic for violent offenders with severe mental illness, for example, offenders with paranoid schizophrenia, whose disorders severely compromise their ability to perceive, reason, regulate their emotions, and control their behaviour. In such instances, a properly allocated assessment of criminal responsibility must consider the perpetrator's mental state at the time of the commission of the crime, in addition to the perpetrator's conduct.[37]

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[35] Hoang, Thai Duy, and Minh Huyen Nguyen. "Social Work and Juvenile Justice: Comparative Perspectives and Policy Lessons for Vietnam." Juvenile and Family Court Journal, ahead of print, 2026. https://doi.org/10.1111/JFCJ.70023.

[36] Coppola, Federica. "We Are More Than Our Executive Functions: On the Emotional and Situational Aspects of Criminal Responsibility and Punishment." Criminal Law and Philosophy 16, no. 2 (July 2022): 253–66. https://doi.org/10.1007/S11572-021-09594-5.

[37] Reddy, K. Jayasankara. "Neuropsychology of Criminal Responsibility." Foundations of Criminal Forensic Neuropsychology, 2025, 93–127. https://doi.org/10.1007/ 978-3-031-83771-5_5.

In criminal law, mental incapacity has been incorporated into the framework of punishment as a limit on punishment.[38] Even if mental illness is present, punishment may be warranted if the person is blameworthy. In cases of severe mental illness where a person is unable to comprehend the nature of their conduct or to regulate their behaviour, punishment is inconsistent with justice and humanity. However, the absence of responsibility does not mean the absence of legal answerability. The state has the obligation to continue to protect victims and the public and provide a safe environment, including the provision of appropriate treatment for the mentally disordered offender. It is a difficult and complicated problem to develop a justice system that does not rely on harsh punishment, neglect, or leave offenders free to commit repeated, harmful crimes.

The rights-based approach to disability addresses this problem. The Convention on the Rights of Persons with Disabilities mandates equal access to justice that free from discrimination, and ensures reasonable accommodations, enabling full participation in society for people with disabilities. In criminal justice, this means that states must ensure people with disabilities are not treated as mere objects of judicial control and punishment. Instead, they are treated with dignity as legal subjects. However, this approach must be weighed against the rights of victims. Therefore, an effective criminal justice system incorporates protection of the rights of persons with disabilities as well as the rights of victims, the evaluation and treatment of forensic psychiatric patients, and social reintegration.[39]

The CRPD is important because it has changed the understanding of disability in the justice system. Disability is understood to be more

[38] Singh, Jasjit. BALANCING JUSTICE AND MENTAL HEALTH: Unravelling the Complexities of Juvenile Psychology in Indian Law. April 6, 2025. https://doi.org/ 10.33774/COE-2025-4092B.

[39] Kara, Serenay, Ernestyna Pachała-Szymczyk, Massimiliano Rosa, and Riccardo Tonelli. "Reasonable Accommodation beyond Disability: An Inclusive Equality Approach through the Organisation of the Enterprise." Diritto Della Sicurezza Sul Lavoro, no. 1 (March 2024): 53–96. https://doi.org/10.14276/2531-4289.4467.

than an individual medical issue. In the justice system, a mental illness is an issue, but a person with a mental illness is also a patient who is part of an unaccommodating legal system. Vulnerability may be aggravated, and an unfair legal outcome may be produced by long, unassisted, untreated, and unaccommodating psychiatric processes, and a stigmatizing legal system.

It is necessary to broaden the scope of access to justice beyond the mere ability to appear in court. Access to justice must also incorporate the right to fully participate in legal proceedings, the right to legal counsel, the right to communication support, the right to a psychiatric assessment, the right to reasonable modifications, and the right not to experience adverse legal consequences as a result of discriminatory treatment. If an individual does not have a basic understanding of the legal process, cannot express themselves, or does not receive a psychiatric assessment during the legal process, the individual is not being treated equally to others. While a legal system must recognize the vulnerability of these individuals, it must also maintain substantive equality. In order to sustain substantive equality, the legal system must remain flexible and responsive to the needs of these individuals.[40]

A flexible system cannot be built without recognizing the needs of victims. If we look at individuals with mental disorders who perpetrate violent crimes, we see victims whose needs were not addressed, and their families now have to deal with the financial, physical, and emotional consequences of the crime. A legal system that is only concerned with the mental state of the offender has the perception of legal victimization. Disability justice and victim justice must be unified in a legal system. The legal system must protect individuals with mental disorders from unfair legal consequences, while protecting victims. This balance is the foundation of the advocacy model of legal justice proposed in this study.

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[40] White, Robyn, Juan Bornman, Ensa Johnson, and Dianah Msipa. "Court Accommodations for Persons with Severe Communication Disabilities: A Legal Scoping Review." Psychology, Public Policy, and Law, ahead of print, 2020. https://doi.org/10.1037/LAW0000289.

Therapeutic jurisprudence acts as a nexus between the disciplines of law and mental health. It claims the law should be assessed not only by its empirical legality, but also by its humane results. In the field of law, a procedure may be formally correct, but be therapeutically dangerous by worsening a mental health condition, heightening stigma, isolating an individual from needed care, and creating a persistent cycle of apprehension, neglect, and abandonment. On the other hand, Law may be therapeutically beneficial when it promotes care, ensures responsibility, recovery, and reintegration. In the case of persons with psychosocial disabilities, under the lens of therapeutic jurisprudence, the question posed by the justice system ought to be not only "what crime was committed?" but also "what caused the crime? What preventive measures can be taken to reduce the risk of future victimization?"[41]

In this regard, restorative justice is also a relevant consideration, although care should be taken in its application. With many standard criminal offenses, restorative justice can place a greater emphasis on communication, personal accountability, the giving of apologies, and the making of amends, along with a restoration of relationships. in many cases involving individuals with serious mental disorders, using restorative justice directly may be unsuitable, especially when the offender lack the capacity, the victim has been traumatized, and public's safety is at risk. The idea of restorative justice is still applicable, however. Justice should not be completed with the punishment and/or the release of the offender. Rather, justice must rehabilitate the harm caused, assist and restore the victim, and treat the offender in a way that allows the social order to be once again stabilized and to diminish the chance of future harm. This cannot be accomplished by an informal agreement alone.

The principles of the CRPD, therapeutic jurisprudence, restorative justice, and Pancasila justice are the building blocks of this research.

[41] Lizzio, Sofia. "Therapeutic Jurisprudence: Inspiring Stories from Professionals around the World." SSRN Electronic Journal, ahead of print, December 15, 2021. https://doi.org/10.2139/SSRN.4009811.

The CRPD gives the language of rights to dignity, non-discrimination, and the right to access justice. Therapeutic jurisprudence focuses on the treatment and the human aspects. The Restorative justice framework is about the repair of damage and rebuilding relationships. Pancasila justice provides the basis of the Indonesian norm on the balance of dignity, humanity, order, justice, and social justice. Therefore, all the frameworks combined are about a relational and integrative legal model that is not offender-centered, victim-centered, or state-centered.

In the Indonesian legal context, Pancasila acts as a basis of norms for the development of such a model. The values of belief, humanity, togetherness, democracy, and social justice call for a legal order that is substantive, inclusive, and humane. Pancasila justice is opposed to inequitable punishment and also to the lack of control in the release of individuals. Therefore, it calls for an adequate, balanced approach that defends the dignity of people distressed through mental crisis, demonstrates recognition of the suffering of the victims, upholds the right to safety in the interest of the public, and implores the state to fulfil its obligations to provide justice, legal, and health services. Thus, Pancasila justice has the greatest impact on the reform of the management of persons with psychosocial disabilities in the area of the justice of the State.

This study employs symbiotic justice to show the interconnectedness of offenders, victims, families, communities, and legal and health institutions of the state. Justice is more than a final legal decision. It is a relational process that implies shared accountability of various stakeholders. Concerning persons with psychosocial disabilities, this means that the perpetrator needs medical treatment and legal defence; the victim needs acknowledgment and compensatory relief and security; the family needs assistance, and the community needs protection; and the state is obligated to provide coordinated and integrated legal and mental health support. Within this defence, the study endeavours to move from a descriptive approach to legal advocacy and emphasizes the need for reform.

E. Symbiotic Justice as a Relational Analytical Framework

This study conceptualizes Symbiotic Justice not as a universal or definitive theory of criminal justice, but as a proposed relational analytical framework for examining cases in which criminal responsibility intersects with psychosocial disability. Justice represents the balance of multiple conflicting, but legitimate, concerns and responsibilities of the state, legal system, psychosocial disability person, victim, family, community, and other relevant institutions. It cannot be reduced to the punishment of the offender.

The framework comprises five interrelated propositions. First, human dignity ensures that psychosocial disability should not be the basis for punitive or exclusionary measures. Second, differentiated responsibility means that criminal responsibility should be assessed by considering the person's legally relevant mental capacity at the time of the offense, as opposed to diagnosis. Third, reciprocal protection means that the justice system should balance the rights of people with disabilities and the rights of victims. Fourth, institutional interdependence means that in order to function optimally, the criminal justice system should involve mental health professionals, social services, and other community members. Fifth, restorative reintegration means that in order to ensure the safety of victims and balance the rights of all parties, the criminal justice system should integrate treatment and rehabilitation with community support and you should maintain oversight.

Pancasila serves as the normative basis for this approach within the Indonesian context. The principles of humanity and deliberation, when combined with the concepts of collective responsibility and social justice, provide a framework that neither trivialized justice to punishment nor justifies mental incapacity to institutional abandonment. Therefore, for the purpose of this study, Symbiotic Justice serves as the central integrator for criminal responsibility, disability justice, therapeutic and rehabilitative responses, victim protection, community engagement, and state responsibility.

Operationally, the framework poses five questions for each case. These questions are (1) What was the legally relevant mental capacity of the accused at the material time? (2) What procedural accommodations and legal assistance are required? (3) What treatment, rehabilitation, and supervision are clinically and legally appropriate? (4) What protections and remedies are necessary for the victim and the community? (5) What institutions are responsible for implementing and monitoring these measures? This structure enables the framework to be used as an analytical tool rather than an abstract philosophical proposition.

F. Research Method

1. Research Design

This study used an empirical socio-legal research design that combined doctrinal legal analysis with qualitative field research. The socio-legal approach was taken because the research goes beyond the normative aspects of Indonesian Criminal Law, Disability Law, Health Acts, and Human Rights Instruments to examine how these laws are interpreted and implemented, and the experiences of the concerned actors and institutions with regard to persons with psychosocial disabilities.

The doctrinal analysis examined into the Indonesian Criminal Code, the New Indonesian Criminal Code (Law No. 1 of 2023), relevant health and disability laws, the 1945 Constitution, human rights instruments, the Convention on the Rights of Persons with Disabilities, court-related documents, policy documents, and legal scholarship. The empowerment aspect of the research focused on institutional practices of psychiatric assessment and criminal responsibility, as well as access to legal assistance and protection of victims, as well as family and community supervision and inter-agency collaboration.

2. Research Setting and Period

I conducted the research in Surakarta and Semarang, Central Java, Indonesia, from January to June 2025. I chose these locations to get

various institutional viewpoints on my research problem, including but not limited to, criminal-justice actors, mental-health personnel, families, and community/social-service actors. Conducting the research in two urban locations enabled the researcher to see if there were challenges with institutions that were limited to one organization versus challenges with the criminal-justice system and mental-health services more broadly.

The focus of my fieldwork was on the professional and community levels with regard to cases where there is alleged criminal behaviour with severe psychosocial disability. The study did not attempt to estimate the prevalence of offending among persons with mental disorders. Rather, the empirical component was designed to understand institutional processes, decision-making, implementation gaps, and stakeholder experiences relevant to legal reform.

3. Participants and Sampling

Participants were selected through purposive sampling on based on their direct professional or personal experience with legal, medical, social, or family dimensions of cases involving persons with psychosocial disabilities. The empirical sample consisted of 24 participants including eight law-enforcement, prosecutorial, judicial, or legal-service actors, five psychiatrists or other mental-health professionals, seven family members experienced in supporting persons with serious psychosocial disabilities; and four community or social-service actors involved in supervision, rehabilitation, or social support.

Eligible professional participants were required to have at least two years of relevant work experience involving criminal justice, mental-health services, disability services, legal assistance, or community rehabilitation. Family participants were selected on the basis of direct caregiving or support experience involving a family member with a serious psychosocial disability. Community and social-service participants were selected because of their involvement in

rehabilitation, community supervision, disability assistance, or mental-health-related social services.

Recruitment continued until the data provided sufficient thematic depth across the principal stakeholder categories and no substantially new institutional themes were emerging from subsequent interviews. The objective was not statistical representativeness but analytical coverage of the institutional and social relationships relevant to the research questions.

The objective was not statistical representativeness but analytical coverage of the institutional and social relationships relevant to the research questions.

The composition of the qualitative sample is summarized in Table 1. The participant structure was designed to capture complementary perspectives across the legal, clinical, family, and community dimensions of cases involving persons with psychosocial disabilities. As shown in Table 1, the 24 participants comprised eight legal and law-enforcement actors, five mental-health professionals, seven family members, and four community or social-service actors. This multi-stakeholder composition enabled the study to examine the research problem not solely from the perspective of criminal-law institutions, but also from those responsible for psychiatric assessment, caregiving, rehabilitation, community support, and social reintegration.

TABLE 1. Characteristics of Qualitative Participants

Participant Group	Code	N	Main Contribution
Legal/law-enforcement actors	LA01–LA08	8	Investigation, prosecution, adjudication, legal assistance
Mental-health professionals	MH01–MH05	5	Psychiatric assessment, treatment, rehabilitation
Family members	FM01–FM07	7	Caregiving, supervision, barriers to services

Participant Group	Code	N	Main Contribution
Community/social-service actors	CS01–CS04	4	Community support, reintegration, social supervision
Total		24	

Source: Authors' fieldwork data (January–June 2025)

As shown in Table 1, the sample represents from the main stakeholder groups involved in the legal-medical-social response at various stages. Legal and law-enforcement participants contributed perspectives on investigation, prosecution, adjudication, and access to legal assistance, whereas mental-health professionals provided expertise concerning psychiatric assessment, treatment, and rehabilitation. Family participants contributed experiential perspectives on caregiving, supervision, and barriers to continuing services, while community and social-service actors provided insights into community support and reintegration. The inclusion of these various stakeholder groups facilitated triangulation across institutional and experiential perspectives and provided an empirical basis for identifying recurring gaps in psychiatric referral, inter-agency coordination, rehabilitation, victim protection, and post-treatment supervision.

4. Data Collection

Primary data were collected through 24 semi-structured interviews, field observations, and documentary analysis. Interviews were conducted between January and June 2025 and lasted approximately 45–75 minutes, with an average duration of approximately 58 minutes. Nineteen interviews were conducted face-to-face in private settings agreed upon with participants, while five were conducted through secure online communication when in-person meetings were impracticable.

The semi-structured interview guide addressed eight principal domains: (1) determination of criminal responsibility; (2) identification and timing of psychiatric assessment; (3) procedural treatment of

persons suspected of serious psychosocial disability; (4) access to legal assistance and reasonable accommodation; (5) coordination between criminal-justice and mental-health institutions; (6) rehabilitation and post-treatment supervision; (7) victim protection and community safety; and (8) family, community, and state responsibility.

With participant permission, interviews were audio-recorded and supplemented with researcher field notes. Where a participant did not consent to recording, detailed contemporaneous notes were taken and expanded immediately after the interview. Interviews conducted in Bahasa Indonesia were analysed in their original language to preserve meaning, and only material required for publication was translated into English.

Field observations were conducted in relevant institutional and community settings to understand how legal, health, social, and family responsibilities were coordinated in practice. The observation focused on institutional procedures and interactions rather than on the clinical behaviour of identifiable patients. Referral processes, legal and health personnel communication, family involvement, rehabilitation, and care continuity were some of the focal areas of this research.

The documentary materials included laws, policies, and institutional documents, publicly available court documents, case reports, and organizational documents for mental-health and legal services. During the research, I relied on documentary sources to contextualize the interviews and to see how the laws and policies compared to the institutional practices.

5. Data Analysis

I used thematic analysis for the qualitative data focusing on both deductive and inductive coding. I developed a coding framework based on the research questions and the legal and theoretical literature. The initial categories were criminal responsibility and liability, psychiatric assessment, legal defence, institutional coordination, victim protection, rehabilitation, family and community responsibility, reasonable accommodation, and state liability.

Iteratively reading interview transcripts and field notes helped recognize other patterns not captured by the preliminary framework. Related codes were collapsed into themes representing pervasive institutional and socio-legal issues. The main themes of the analysis incorporated legal uncertainty, delayed/inconsistent psychiatric assessment, fragmented institutional responsibility, insufficient rehabilitation capacity, family burden, inadequate victim-centred procedures, and the lack of a legal-medical-social integrated pathway.

Interview data were triangulated with field observations, pertinent legal provisions and policies, and other case-related public documents, in order to enhance interpretive credibility. Differences among research participants were noted and kept in order to maintain analytical sensitivity as opposed to artificially producing consensus. The final interpretation was then examined through the Pancasila-based Symbiotic Justice framework developed in the theoretical section.

6. Ethical Considerations

The study was conducted in accordance with established principles for qualitative research involving potentially sensitive legal and health-related information. The ethical clearance was granted by PAGORA, research ethics committee on 6 January 2025 under Approval No. 2025/OU/EAC/01/0048.

All participants received information concerning the purpose of the study, the voluntary nature of participation, the intended use of the data, confidentiality protections, and their right to decline to answer particular questions or withdraw prior to anonymization of the data. Written informed consent was obtained before interviews and observations.

The empirical study did not seek to interview persons experiencing acute psychosis or individuals whose decision-making capacity to provide informed consent was uncertain. Family participants and professionals were interviewed about institutional experiences and processes without requiring disclosure of personally identifiable psychiatric information concerning individual service users. Names,

exact addresses, case identifiers, medical-record numbers, and other identifying details were removed from the research material used for analysis and publication.

Participants were assigned coded identifiers according to stakeholder category, for example LA01–LA08 for legal and law-enforcement actors, MH01–MH05 for mental-health professionals, FM01–FM07 for family members, and CS01–CS04 for community or social-service participants. Only anonymized excerpts and aggregated thematic findings were used in the manuscript.

G. Regulatory Factors for persons with psychosocial disabilities of the Paranoid Schizophrenia Type Require Legal Reform

From a legal perspective, the advocacy approach to dealing with cases of mental health disorders and criminalization goes beyond the boundaries of the legal process. It encompasses access to justice, legal aid, a legal and psychiatric assessment, protection and rehabilitation of victims, community reintegration, and therapeutic services. Legal assistance is not to be viewed as a tool for the legal process, but rather as a tool for social protection, a means of empowerment, and a way to ensure access to justice.

Legal gaps and the practices that accompany them can be systematically described by using a gap analysis framework, as illustrated in Table 2.

TABLE 2. Gap Analysis Between Legal Norms and Practical Handling of Persons with Psychosocial Disabilities Cases

Aspect	Normative/ Policy Expectation	Empirical/ Documentary Observation	Identified Gap
Criminal responsibility	Mental condition considered in determining responsibility	Interpretation and application may vary across cases	Legal and procedural uncertainty

Aspect	Normative/ Policy Expectation	Empirical/ Documentary Observation	Identified Gap
Psychiatric assessment	Expert assessment relevant where mental incapacity is in question	Timing and referral practices were reported as inconsistent	Lack of standardized procedures
Institutional coordination	Multi-agency involvement is required	Coordination frequently depends on fragmented or informal arrangements	Institutional fragmentation
Victim protection	Victim rights remain relevant regardless of offender capacity	Victim-sensitive mechanisms are not consistently integrated into mental-incapacity cases	Justice imbalance
Rehabilitation	Treatment and rehabilitation may form part of the legal response	Availability and continuity of services vary	Implementation and resource gap
Community reintegration	Continuing support is necessary after treatment	Family and community supervision may occur without structured institutional support	Post-treatment governance gap

Source: Authors' analysis of Indonesian legal provisions and empirical research findings

According to Table 2, implementation gaps persist even with the inclusion of persons with psychosocial disabilities in the law. These gaps

indicate the need for a broader and advocacy-centred legal reform that strikes a balance between legal certainty and social justice.

H. From Normative Recognition to Institutional Failure

The gaps listed in Table 2 reflect the main focus of this analysis, namely, the inadequate transformation of formal legal recognition into consistent and regular institutional practices. It is acknowledged in Indonesian law that there are cases of persons with mental incapacity who are exempt from criminal responsibility, but from a practical and documentary standpoint, it has been established that there are significant challenges in the field of psychiatric evaluation, inter-institutional cooperation, victim protection, rehabilitation, and the resocialization of the person after treatment and his/her integration into the community.

This Institutional frailty causes problems for all stakeholders. For those with mental health problems, a diagnosis made too late results in their wrongful detention, social stigma, and punishment that they are unable to cope with. For the victim, it gives the false impression that the perpetrator of a crime has been punished, and as a result, the court has determined that the perpetrator is not legally fit to commit the crime. For the community, the lack of oversight on the perpetrator makes the community feel unsafe and unprotected. Therefore, genuine legal reform goes far beyond merely amending the language of the statutes. It requires the integration of a comprehensive, coherent system that links the criminal justice system, mental health services, social welfare, local government, the family, and the community.

The criminal cases that are discussed in the following paragraphs are analytically distinct from the 24 participants of the primary qualitative fieldwork and are considered illustrative cases. They are based on publicly available court documents, institutional/official records, and the media. These cases are not used to measure the prevalence of offending among persons with psychosocial disabilities. Nor do these cases serve as evidence that there is a connection between mental ill-health and violence. These cases serve to document the problems in

process and practice that have been observed in the primary data, namely uncertainty about mental capacity, the need for psychiatric assessments that are made too late, disjointed referral systems, inadequate rehabilitation, gaps in protection for victims, and inadequate supervision after treatment.

Several reported cases in Indonesia illustrate the practical difficulties faced by law enforcement institutions when criminal incidents involve persons suspected of having serious mental disorders. These cases show a multitude of problems, including the determination of no mental capacity, absence of urgent mental health assessment, absence of clear coordination between the police and health care institutions, lack of availability of mental health services, and absence of a feeling of safety among the public. The aim of discussing these cases is not to consider persons with mental health issues as dangerous, but to show that the lack of reform to address mental health issues results in legal certainty, efficiency of treatment, adequate protection of the victim, and the presence of a supervision system.

Based on the current state of the law, this case illustrates that handling cases of suspected perpetrators who act with mental disorders cannot be treated the same as handling general offenders. In this case, the application of Article 44 of the Criminal Code is considered. According to Article 2 of the old law, if the mental disorder influences a person's ability to be accountable, then the person cannot be held criminally responsible. Authorized police officers lack the ability to assess a suspect's mental state during investigations and interviews. This is because a thorough medical and legal evaluation is necessary for such an assessment.

Furthermore, only a court judge has the right to assess the mental state of the offender. A judge, for example, can take into account the results of an expert assessment when deciding on a case. This is in line with the provisions of Article 39 of the new Criminal Code. The article indicates that the judge has the right to order the placement of the offender in a mental health institution for treatment within a specified time. Therefore, a mental assessment of the offender must be

conducted before the case is moved to a different stage in the judicial process.

This can cause major issues with law enforcement, such as the wild closure of cases by law enforcement officers or the forcible release of an offender who has not received treatment. This syndrome can create chaotic situations within the legal system, especially with offenders who have a mental illness.

The qualitative interviews confirmed the gap between the formal legal process and its practical implementation. The 24 subjects expressed concern about the timing of psychiatric assessments, scattered responsibility within the institution, inadequate rehabilitation, and the uncertain situation of supervision after treatment. Participants from the legal and law enforcement systems expressed the difficulty of making an informed decision about the need for a psychiatric referral and the responsibility of the institution that must take action. It was the view of the mental health professionals that the assessment must be done at the time when the person's mental condition is most relevant to the situation, and a general psychiatric diagnosis should not be relied upon. Participants from the family expressed the burden of supervision and the financial cost, and the actors from the community and social services stated that that the situation depended on informal personal communication rather than inter-agency coordination.

The interviews refuted the assumption that people with psychosocial disabilities are dangerous. Participants identified adverse effects caused by the combination of several factors including the family and social situation of the individual, the institution, and an unmanageable condition that was previously diagnosed. This further supports the study's claim that the problem is not with the quality and continuity of legal-medical-social responses, but rather with the current reliance on psychiatric diagnosis.

> *"It is not enough to decide if the suspect has a mental disorder. There must be clear directions on when to request a psychiatric evaluation and how to deal with the evaluation in the next step in the legal process." (LA03)*

"After treatment, families often become the main supervisors, but not every family understands relapse signs or has access to continuing mental-health services." (FM04)

"A diagnosis alone does not answer the legal question. What matters is the person's mental condition in relation to the conduct and the relevant period." (MH02)

I. Regulatory Challenges in Handling Criminal Cases Involving Persons with Serious Mental Disorders

In Indonesia, regulatory frameworks for managing the cases of offenders with severe mental disorders have not experienced any significant changes from the colonial criminal law frameworks to the current ones. The New Criminal Code reformulates the provisions for criminal responsibility. Yet, in practice, the management of mental incapacity relies on the discretion of the judge, the psychiatric assessment, the coordination of the institutions, and the presence of treatment facilities. Consequently, there is a disparity between the justice system's formal acknowledgment of mental incapacity and its actual capacity to provide just, humane, and preventive responses.

Therefore, it is necessary to review and discuss the current legislation regarding people with disorders, including Article 39 of the Criminal Code (KUHP), which is an amendment to Article 44 of the old Criminal Code. What is meant by Article 39 is that because the perpetrator cannot be held responsible, the efforts made by the government with a Rehabilitative Approach, This action is only a one-way action where the government only focuses on the perpetrator with rehabilitation and ensures whether the perpetrator who has a mental disorder can carry out the legal process or not, while the handling, care and healing of people with mental disorders is not easy to ensure recovery, the possibility of the patient relapsing is very large. Furthermore, regarding Law Number 17 of 2023, Amendments to Law Number 18 of 2014 concerning Health, Part Eleven Concerning

Mental Health, Articles 81 to 85, which only reads about mental health examinations and medical care.

Law Number 1 of 2023, Article 39, provides a critical legal framework for acknowledging mental incapacity in criminal responsibility. This section, however, falls short. It is assumed that the absence of policies, operational guidelines, and integrated systems for effective implementation of the laws have caused this gap. It is likely that in the absence of such systems, the legal system will either penalize severe mental disorder offenders as if they had no mental disorders, or absolutely exonerate them from all forms of penalty and care, as well as supervision, while ensuring that the victims and the community are not put at risk.

Understanding Article 39 must be approached from the perspective of the contemporary trends in criminal law, which recognize that certain forms of criminal conduct may require diversified responses from the law and justice system, going beyond the realm of penal sanctions. One of these trends is the application of penal sanctions to conduct for which criminal responsibility has been established. The other trend allows for the adoption of a range of therapeutic, protective, and/or supervisory measures in response to the mental condition of the offender, which affects the responsibility or the appropriate legal response.

In this regard, the double-track approach is important for people with serious psychosocial disabilities because it addresses two extremes: the equal treatment of all defendants, regardless of whether they have a legally relevant mental incapacity; and the lack of an adequate therapeutic, supervisory, and victim-protection framework in situations where someone is released from criminal punishment. Along with the availability of treatment options, there must be standardized psychiatric assessments, clear judicial criteria, adequate rehabilitation facilities, structured review mechanisms, the The The integrity of care, and proportionate community supervision.

This approach strengthens the Pancasila-based model proposed in this study. The model does not treat punishment and rehabilitation as completely separate policies to to be indiscriminately applied to every

case. The appropriate pathway is defined by criminal responsibility, clinical need, legal safeguards, victim interests and public safety. Therefore, Article 39 should be part of a continuous legal, medical and social framework, and not be a standalone exception to a punishment policy.

This condition affects the public and those around the individual diagnosed with it, too. For instance, the most noticeable aspect is the breakdown of social relations. Loss of safety is a major concern as well. For this reason, the handling of criminal cases for persons with paranoid schizophrenia should address mental health and criminal liability, safety, the protection of victims, social welfare, and the human rights of the persons involved. The problem is the legislation that addresses the diagnosis, and the mismanagement of the legal and social system that fails to address the issue in a fair and just way.

J. Cross-Country Lessons for Indonesian Legal Reform

Analysis of other countries has taught Indonesian reform several important things. One of the most important lessons is that legal reasoning cannot solely determine measures of criminal responsibility in cases of mental disorder. Instead, it involves a systematized connection between courts and forensic psychiatric assessments. In those legal systems where the connection is advanced, psychiatric assessments are treated neither as optional nor subordinate assessments. Indonesia needs to enhance it such that mental incapacity is assessed routinely, early, and in a professional manner.

The second lesson underscores that treatment orders must consider the available resources/institutional capacity. While legislation may authorize rehabilitation or placement in a mental hospital, such legislation loses its value when the facilities for rehabilitation are overcrowded, underfunded, or removed from the criminal justice system. Some of the problems in many developing countries result from the fact that legislative reforms aimed at revising criminal justice systems outpace the reforms in health services. In the case of Indonesia, amending Article 39 of the New Criminal Code or using the provisions

of the health law in Indonesia is insufficient if the state does not simultaneously develop community-based mental health services, rehabilitative services, and post-care mental health services.

The third lesson is about the protection of victims. Some legal systems, in their recognition of the mental incapacity of offenders, have come under criticism for having an imbalance in the consideration of the mental state of offenders and the interests of victims. This is, indeed, the case in Indonesia. When a mentally disordered person is legally declared incapable of criminal responsibility, it is most likely that victims will feel that the legal process has, in fact, overlooked their interests. Therefore, the reform model must provide for victims' rights to information, psychological help, compensation, safety, and treatment with supervision. Disability justice and victim protection are compatible, and in fact provide for an integrated and comprehensive model of justice.

The fourth lesson is about diversion and therapeutic pathways. In some countries, mental health courts, diversion pathways, and community treatment orders provide a way to divert people with mental health problems from the normal processes of the criminal justice system for infantioria offenses, as they can be diverted for treatment. Indonesia can look at these examples and adapt them as needed. In general, when the criminal justice system determines that a case does not warrant a criminal response, the system should be able to divert and route the case to treatment, rehabilitation, and support services.

The fifth lesson is about the importance of inter-agency collaboration. Dealing with mental health issues and the criminal justice system should not be the responsibility of the police or the courts, or other family members, acting alone. This requires the engagement of several agencies and legislation. It is inevitable that institutions choose their own limited function, while the larger problem still remains. A situation can arise where the court orders treatment, and the family is expected to supervise, but may not possess the needed resources, knowledge, or even the will to do so. The community may demand safety, but no formal or even

community-based support mechanisms exist. The situation creates a cycle of uncertainty and vulnerability.

Lesson six deals with the significance of community. Within Western legal systems, responsibility is often framed in terms of the relationship between the individual and the state. In many Asian societies, however, care, supervision, and social reintegration continue to be the responsibility of the extended family/ community. Indonesia's Pancasila-based model, therefore, has the potential to be unique when situated in the context of legal reform by incorporating community responsibility. However, community responsibility must be circumscribed. It must not serve as an excuse for the state shifting its obligations to families or communities. Rather, community responsibility must serve to augment state obligations through the provision of regulated, supportive structures and institutional supervision.

From the lessons of the said countries, Indonesia needs to reject both extremes of these models. Firstly, Indonesia needs to reject a punitive model that regards all persons with serious mental disorders as having a psychiatric disorder and therefore as serious mental offenders. Secondly, Indonesia needs to reject a purely medical model that regards the mental disorder of the offender as the sole concern and, in so doing, disregards the victim, the risk to the community, and the legal responsibility that is owed. The proposed Pancasila-based model is, therefore, a unique model that strikes a balance between the two extremes. It recognizes that serious mental disorders may be a concern that needs to be addressed, but that justice also needs to be community, victim, and state-oriented.

Family participation should therefore be understood as supported participation rather than substituted state responsibility: the state remains responsible for providing the legal, clinical, social, and financial infrastructure necessary for safe treatment and reintegration.

K. Ideal Regulations Based on Pancasila Justice in Resolving Criminal Cases of persons with psychosocial disabilities of the Paranoid Schizophrenic Type

In Pancasila justice, response to the law should include respect for human dignity and the rights of victims, protection of the general public, and provision of treatment for persons with mental disorders. In handling cases of persons with psychosocial disabilities, justice goes beyond punishment. It involves mental examination, legal aid, rehabilitation, the protection of the victim, the commitment of the family, community, and the state. It shows that the law should not limit itself only to the assigning of guilt. Instead, it should avoid inflicting repeated injuries and restore order in society.

From the findings of this study, an advocacy-based legal service model, which is based on the Pancasila justice ideology, is presented in Table 3.

TABLE 3. Proposed Pancasila-Based Legal Advocacy and Access-to-Justice Model

Component	Core Function	Primary Stakeholders	Expected Outcome
Early identification	Identify reasonable indications of mental incapacity	Police, lawyers, health personnel	Timely referral
Forensic psychiatric assessment	Assess legally relevant mental condition and capacity	Forensic psychiatrists, courts	Evidence-based responsibility determination
Legal assistance	Ensure representation and reasonable accommodation	Lawyers, legal-aid organizations	Effective participation and fair process
Judicial determination	Differentiate punishment,	Courts, prosecutors	Proportionate legal response

Component	Core Function	Primary Stakeholders	Expected Outcome
	treatment, supervision, or other lawful measures		
Rehabilitation	Provide clinical treatment and psychosocial recovery	Health institutions, social services	Stabilization and recovery
Victim protection	Information, psychological support, safety planning, lawful compensation mechanisms	Justice agencies, victim services	Victim recognition and protection
Family support	Supported caregiving and monitoring	Families, social and health services	Sustainable care
Community reintegration	Structured social reintegration and supervision	Local government, community organizations	Reduced social exclusion and improved safety
Inter-agency case management	Coordinate legal, health, and social interventions	Police, prosecutors, courts, health and social agencies	Continuity of services
State oversight	Standards, funding, monitoring, accountability	Central/local government	System sustainability and accountability

Source: Authors' own elaboration based on the research findings and Pancasila-based justice principles

The model in Table 3 is an integrated legal, social, and institutional model for the resolution of cases of persons with psychosocial disabilities. The necessary balance among rehabilitation, protection, and justice is assured through the teamwork of all parties involved.

A clear distinction must be maintained between criminal responsibility, therapeutic measures, civil responsibility, and victim compensation. Where a court determines that a person lacked the legally required mental capacity for criminal responsibility at the relevant time, the individual should not be treated as criminally guilty merely for the purpose of creating a compensation obligation. A finding that criminal punishment is unavailable does not, however, extinguish the legitimate rights and needs of the victim.

Victim compensation must therefore be pursued through legally appropriate mechanisms. Depending upon the circumstances and applicable law, these may include restitution or compensation schemes, state-supported victim services, insurance, civil proceedings, or legally recognized responsibility of another party. Where relevant, Article 1367 of the Indonesian Civil Code should be considered in determining responsibility associated with persons under another party's supervision or care, rather than presuming that an individual who lacks criminal capacity personally incurs a criminal compensation obligation.

Consequently, the Pancasila-based model separates the question "Is the person criminally responsible?" from the question "How should the victim be protected and compensated?" This distinction preserves doctrinal consistency while ensuring that disability rights do not operate at the expense of victim protection.

L. Operationalizing Pancasila-Based Advocacy

The advocacy model referenced in Table 2 articulates justice in terms of an equilibrium among the certainty of law and humanity, social order, and substantive justice. The first principle posits that every legal answer must consider human dignity and the dignity of people

suffering from mental disorders. The second principle emphasizes the justice system avoiding responses that punish an illness without considering the justice system's answer. The third principle addresses social order while simultaneously preventing the stigmatization of persons with psychosocial disabilities and the neglect of victims. The fourth principle emphasizes the coordination of legal, medical, family, and community actors as a requirement. The fifth principle concerns social justice and requires the legal process to ensure substantive protection for socially vulnerable persons while simultaneously recognizing the legitimate rights, safety, and remedial needs of victims.

For practical implementation, the proposed model requires a sequenced and institutionally coordinated pathway. This order of processes demands the consideration of a pre-trial psychiatric evaluation, the availability of legal services to persons with psychosocial disabilities, the establishment of safe and victim-sensitive services, family supervision, community supervision, and safe rehabilitative services. This process model advocates for the elimination of harmful acts, but offers the distinction of punishment, treatment, supervision, and restorative justice. In this way, cases that involve people suffering from a mental condition in a state of paranoid schizophrenia cannot be resolved with punitive justice alone. The justice system shall respond both to the act and to the mental condition of the perpetrator, victim rights, and the safety of the community.

Pancasila binds the Indonesian constitution and philosophy, and while its origins are Indonesian, its applicability is not limited to Indonesia. Principles such as humanity, deliberation, and social justice align with global concerns of disability justice and the justice gap. In this context, Pancasila is a national ideology and a framework for the local legal system based on the restatement of universal human rights. This is of immense value as international human rights systems require some degree of local adaptation in order to operationalize them.

For the proposed new model, the apparent paradox of universal human rights and local legal systems is overcome. Furthermore, the model shows that local legal systems can support the realization of

global human rights standards. Concepts of the CRPD are grounded in the principles of equality, dignity, and justice, and the absence of discrimination. Pancasila adds the moral community to the realization of these CRPD concepts. In the context of Indonesian society, for example, the principle of humanity is aligned with the treatment of persons with mental disorders in a non-discriminatory manner. The social justice principle, on the other hand, is aligned with the provision of legal and health services. The deliberative principle, in turn, is aligned with the coordination of activities of various government agencies and the involvement of the community, while the unity principle is aligned with the reintegration and inclusion of persons.

This analysis holds significance within the global discourse on law for several reasons. Many legal systems, especially those in the Global South, face the same difficulties in relation to the adaptation of global standards of disability rights. A law reform model completely transplanted from another legal system will be ineffective if family and community structures, religious values, and public perceptions of mental health are considered. On the other hand, a model relying solely on national values and priorities will inevitably legitimize some form of discrimination. The Pancasila model of law reform is an attempt to combine national moral priorities with the international standards of rights.

Practically speaking, legal reform should modify the law and profoundly alter the disposition of institutions. The police should be trained to identify mental illnesses. There should be standards for the prosecution of cases with capacity issues. Judges should have access to mental health professionals. Legal aid should be available to those with psychosocial disabilities. There should be some coordination of services to hospitals and the court system, as well as local government. The law should support families, and the victims of crime should be given the protection and information they need. The goal of legal reform is to eliminate the stigma associated with mental illness and to provide a safe environment for the community.

The execution of Pancasila advocacy requires a governance model that combines formal state regulation with an approach that considers

the responsibility of institutions and communities. The concept of colibration, in this regard, is useful for understanding how governance can be positively impacted by the combined effort of formal state regulation and self-governance. Saleem, Lamarque, and Hasan contend that stronger governance relies on the interaction of formal mechanisms with self-regulation and, notably, the calibration of state intervention and self-regulation mechanisms, which are designed to strengthen accountability, transparency, and confidence among stakeholders.[42] Although the focus of their study is corporate governance, the logic of governance they present is applicable to persons with psychosocial disabilities -related criminal case management. The management of persons with psychosocial disabilities -related criminal cases needs formal legal rules, justice, psychiatric care, legal representation, family care, community supervision, and institutional collaboration. Accordingly, a Pancasila advocacy model is a form of socio-legal colibration, where state institutions offer their binding legal authority, and the remaining actors provide care, reintegration, and social accountability.

In the absence of institutional support, families can be relied on to provide the care, support, and reintegration functions. However, the state has an obligation to ensure that institutional support is available to families by providing resources for the management of community mental health crises, legal support, social services, and community-based rehabilitation to avoid leaving families stranded in the midst of chaotic mental health and legal management.

Stricter and clearer regulations will ensure that persons with psychosocial disabilities are rehabilitated and monitored rather than punished. This improvement will allow the law to function in a new and improved way while practitioners receive treatment that is more applicable to their medical and psychological status. The chances of

[42] Saleem, Irfan, Eric Lamarque, and Rashedul Hasan. "State and Self-Regulation for Better Governance: An Implication of Collibration." *International Journal of Law and Management* 63, no. 2 (February 2021): 172–94. https://doi.org/10.1108/IJLMA-05-2020-0128.

their rehabilitation will, as a result, increase. While treatment is being conducted, victims are legally entitled to information and psychological assistance, safety planning, compensation or restitution, if provision exists in the law, and the treatment and monitoring of offenders is assured.

This will help prevent the legal process from being perceived as a "blank check" for offenders when it is determined that the offender has little or no criminal responsibility.

M. Integrating Treatment, Legal Protection, and Public Safety under Pancasila Justice

Every individual is entitled to human rights regarding their dignity, and the Constitution of the Republic of Indonesia recognizes and protects these rights. This means that persons with psychosocial disabilities should receive equal rights and legal protection. Even so, people with mental disorders continue to experience societal stigma and discrimination, and are still disadvantaged in the legal, social, and institutional frameworks.

Despite the legal commitments on a national and international level, including the ratification of the CRPD, there remains an inequitable access to justice, education, and social services. Combined with social exclusion and structural inequalities, the absence of social support systems renders people with psychosocial disabilities a highly marginal and vulnerable group.

With regard to the law, unravelling the intersections of justice and mental health will allow us to differentiate victims from perpetrators, and justify society's response from the state's response. This will allow for the concurrence of the three justice paradigms: retributive, rehabilitative, and restorative.

The overreliance on punishment for criminal cases involving persons with mental disabilities is unjust. The justice system must provide equal protection for all while ensuring reasonable modification, psychiatric evaluation, rehabilitation, protection of victims, and public safety.

Equality before the law is a fundamental constitutional principle embodied in the 1945 Constitution of the Republic of Indonesia. For persons with mental disorders, this principle requires not only formal recognition before the law but also substantive access to legal protection, psychiatric assessment, rehabilitation, and non-discriminatory treatment within the criminal justice process.

The 1945 Constitution of the Republic of Indonesia has the normative basis for the principle of the rule of law, order, and social justice. These constitutional values necessitate the development of an integrated legal service mechanism to deal with criminal acts of people with psychiatric disorders, as evidenced in Figure 2.

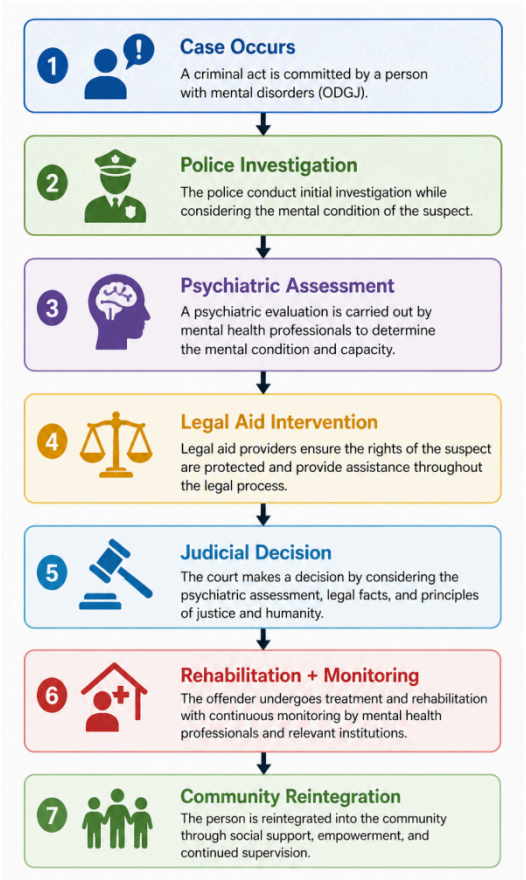


FIGURE 2. Integrated Legal Service Mechanism for Persons with Psychosocial Disabilities
Source: Authors' own elaboration based on the study findings and the proposed Pancasila-based legal advocacy framework

Figure 2 depicts the integrated legal service mechanism. The mechanism covers the continuum from the early detection of a need to a psychiatric evaluation, legal aid, judicial consideration, rehabilitation, protection of the victim, support to the victim's family, community supervision, and the responsibility of the government. This mechanism demonstrates that legal services extend beyond representation in court to a coordinated legal-medical-social continuum.

The results have implications for legal advocacy and the criminal justice system, as well as the governance of mental health. The integrated legal service mechanism is designed to ensure that the right to justice for people with mental health issues, protection of victims, and the right to safety and security of the community, as well as community-based rehabilitation, are all achieved. In this context, legal aid, psychiatric evaluation, family involvement, and community supervision and government accountability are considered integral components of a humane justice system.

N. Victim Protection within a Disability-Sensitive Criminal Justice Model

There is a large gap in the consideration of the victim in the response to criminal activities involving persons with mental health issues. Most of the legal deliberations focus on whether the accused perpetrator has the mental capacity to be held accountable for the crime, whether the perpetrator should be punished, and whether they should be mandated to participate in rehabilitation programs. While these are indeed important principles of legal responses to crime involving individuals with mental health issues, a majority of these deliberations overlook the victim. In the case of a criminal act, the victim and their close associates are often left to endure physical, financial, and traumatic psychological injuries as a result of the criminal

act. They may also be left to experience long-term psychological insecurity. If the perpetrator is found to be mentally incapable of committing the crime, the legal system has effectively ignored the plight of the victim.

Therefore, victim protection should be a principal element in the development of a disability-sensitive criminal justice model. In committing to victim protection, the rights of individuals with mental health issues are upheld. In fact, the justice system balancing model recognizes both types of endemically socially ingrained legal system accountability, mental health disorder, perpetrator, and victim protection.

Victim protection must start at the initial stages of the judicial process. It is the responsibility of the legal system to educate victims regarding the implications that the defendant's mental state and the psychiatric assessment have on the legal process, as well as the potential outcomes that could arise in the case. Victims may misinterpret the issuance of treatment orders as the case being dismissed, and therefore, it is the responsibility of the legal system to educate victims that treatment and supervision do not equate to the legal system turning a blind eye to the defendant. Rather, they are alternative legal solutions when the legal system, in its traditional sense, deems boundaries of punishment to be inadequate.

Victims should have access to psychological assistance, safety planning, and, if appropriate, compensation or restitution services. If the defendant is released to the community after treatment, it is the legal system's responsibility to inform victims and the local community that they will be under Community Supervision or similar legal control. This is especially critical when the defendant and victim reside in the same community. Although the legal process may have formally concluded, the absence of structured control will result

in the community's sense of fear persisting.

As Pancasila Justice is concerned, the protection of victims is a manifestation of humanness and social justice. It is not a humane legal system that protects one group of the law's clientele, and in the process,

neglects another. The principle of social justice demands that protection and a sense of duty be equitably and evenly distributed. Therefore, the victim protection model of advocacy proposed is integrated with the legal aid, psychological evaluation, treatment, family, and community supervision models. This model maintains the balance and equilibrium of the justice system in a way that it does not lean towards victimization, nor in favour of offenders.

This study's multidimensional approach, sensitive to victims, aids international scholarship. In comparative criminal justice, mental incapacity doctrines have come under criticism for alleged 'removal of responsibility'. By including victim protection, this study attempts to fill this gap. It illustrates that, in the context of public protection and victim protection, a balance can be reached. The result is a more credible and socially acceptable justice model.

O. Conclusion

This study provides direct answers to the two research questions. Regarding RQ1, existing regulatory and institutional arrangements require reform because the formal recognition of mental incapacity in Indonesian criminal law is not yet supported by a sufficiently integrated implementation framework. The main issues are related to the standardization and timing of psychiatric assessments, the unclear duties of institutions, the lack of integration of criminal justice and mental health institutions, imbalanced rehabilitation, high reliance on families, insufficient supervision, and lack of institutionalized protection for victims. Therefore, the main problem is not the absence of laws. The main problem is the recognition of rights and the lack of corresponding institutions.

For RQ2, the study offers a model of legal advocacy and access to justice based on the Pancasila framework, which integrates the evaluation of criminal responsibility and psychiatric evaluation, legal services, reasonable accommodation, rehabilitation, victim-centred procedures, family and community engagement, and an active state. The model also integrates a differentiated and relational approach that focuses on the individual's legal capacity, the requirements of therapy,

the interests of the victim, public safety, and the duties of the responsible institutions. The model also refutes an overly penal Hase model and a purely medical model. The purely medical model also ignores the victim, legal accountability, and community safety.

The study offers a new relational framework, Symbiotic Justice. Justice refers to more than the outcome of a legal case. It encompasses relationships between the accused, the victim and their families, the community, the various institutions of the state and the legal system, as well as the mental health and social services. Each of these actors has rights, obligations, vulnerabilities, and the capacity of the institutions that represent them. The legitimacy of a legal response hinges on the balance of these elements, not on the punishment.

The study also shows how Pancasila can be the normative base to incorporate the prescription of disability justice, dignity, and restorative and rehabilitative justice, as well as the principles of access to justice and the protection of victims, within the Indonesian criminal justice system. The framework is grounded in the local culture, but is not isolated from international legal studies. The study shows how a national philosophical framework can be used to incorporate global disability rights to exhibit concern for victims and maintain public safety.

From a theoretical viewpoint, the study extends the notion of symbiotic justice to include the relationships of the offender, victim, and their families, as well as the community, the legal, medical, and state institutions. From a practical standpoint, the study presents a legal-medical-social integration to guide the reform of laws and policies on the cure and rehabilitation of persons with psychosocial mental disabilities of the paranoid schizophrenia type.

Internationally, the study utilizes comparative legal research to demonstrate how national philosophies can adapt global disability rights to a local context. The Pancasila-based advocacy model respects the international rights framework and incorporates a translation into a socio-legal framework that embraces the constitutional, communal, and institutional settings of the Republic of Indonesia. This contribution

will benefit other countries in Southeast Asia and emerging legal systems where criminal justice reform faces challenges related to mental health, family responsibilities, community-based stigma, and fragmented institutional integration.

Three policy recommendations follow from the findings. First, the Supreme Court, Attorney General's Office, National Police, Ministry of Health, and relevant social-welfare authorities should develop a coordinated national protocol to identify suspected mental incapacity and obtain timely standardized forensic psychiatric assessments at the earliest appropriate stage of criminal proceedings. The protocol should clarify referral criteria, assessment responsibilities, documentation requirements, communication between institutions, and the legal use of expert psychiatric findings.

Second, Indonesia should establish an integrated inter-agency case-management pathway connecting police, prosecutors, courts, forensic and community mental-health services, legal-aid providers, social-welfare agencies, local governments, families, and community-support organizations. The pathway should cover the full continuum from initial identification and assessment to judicial disposition, treatment, rehabilitation, discharge planning, community reintegration, and follow-up supervision.

Third, victim-sensitive safeguards should be institutionalized within cases involving mental incapacity. Victims should have access to timely information, psychological assistance, safety planning, legally available restitution or compensation mechanisms, and, where appropriate and legally permissible, information concerning community return and supervision arrangements. Protecting the rights of persons with psychosocial disabilities and protecting victims should therefore be treated as complementary components of substantive justice rather than mutually exclusive objectives.

This study has several limitations. This qualitative empirical study was carried out in two urban locations in Central Java and involved 24 purposively selected participants; consequently, the findings should not be interpreted as statistically representative of all Indonesian criminal-justice or mental-health institutions. Institutional capacity

may differ across provinces, rural areas, and jurisdictions with different access to forensic psychiatric services. In addition, the reported criminal cases were used as secondary illustrative materials rather than as a representative case series. Future research should test the proposed Pancasila-based model across multiple provinces, incorporate longitudinal follow-up of treatment and community reintegration, and evaluate the perspectives of additional stakeholders, including victim-support organizations and persons with psychosocial disabilities who are ethically and clinically able to participate directly.

Future legal reforms in Indonesia should involve careful adjustments to psychiatric assessment procedures, strengthen mental health forensics, and create victim-centred system with rehabilitative strategies that include structured supervision and social reintegration. In this regard, Indonesia can embark on the gradual construction of a clearly and lawfully defined, humane, restorative, Pancasila justice- and international human rights-compliant criminal justice system.

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Acknowledgment

None.

Funding Information

None.

Conflicting Interest Statement

The authors state that there is no conflict of interest in the publication of this article.

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All authors declare that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal. All sources cited in this work follow the basic standards of scientific citation.

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N/A.

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