July - December 2025 Volume 34 Issue 2
PRINT ISSN: 2277-1867
ONLINE ISSN: 2277-8853

JOURNAL OF FORENSIC MEDICINE SCIENCE AND LAW

Official Publication of Medicolegal Association of Maharashtra

MULTISPECIALITY, MULTIDISCIPLINARY, NATIONAL
PEER REVIEWED, OPEN ACCESS, MLAM (SOCIETY) JOURNAL
Indexed with Scopus (Elsevier)

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JOURNAL OF FORENSIC MEDICINE SCIENCE AND LAW
(Official Publication of Medicolegal Association of Maharashtra)
Email.id: mlameditor@gmail.com

PRINT ISSN: 2277-1867
ONLINE ISSN: 2277-8853

Review Article

Ensuring Inclusive Justice for Women with Mental Disabilities Victimized by Sexual Violence: a Feminist Disability Studies Approach

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Article Info

Received on: 10.10.2025
Accepted on: 22.10.2025

Key words
Inclusive Justice Access;
Women with Mental Disabilities;
Sexual Violence;
Feminist Disability Studies;
Mental Health Rights.

Abstract

Introduction: Sexual violence remains a critical issue disproportionately affecting women, particularly those with mental disabilities. These women face increased vulnerability due to cognitive and psychological limitations often exploited by perpetrators. Although Indonesia's 1945 Constitution and Law No. 12 of 2022 on Sexual Violence guarantee equal rights, implementation gaps persist. **Discussion**: Using a Feminist Disability Studies approach, this study explores barriers to justice for women with mental disabilities who experience sexual violence. Intersectional discrimination—arising from gender and disability—renders them perceived as unreliable or incapable of reporting. Research shows that women with disabilities are four times more likely to experience sexual violence. Limited access to legal aid, psychological support, and inclusive communication further marginalizes them. **Conclusion**: The study underscores the urgent need for inclusive justice mechanisms integrating legal, psychological, and social services. Strengthening institutional capacity and gender-sensitive frameworks is essential to ensuring justice, recovery, and empowerment for women with mental disabilities.

1. Introduction

Sexual violence, deeply rooted in gender bias, affects both women and men, but women—especially those with mental disabilities—are more vulnerable due to gender inequality and psychosocial limitations.[1]

In Indonesia, the 1945 Constitution guarantees rights to health, equality, and protection from violence (Articles 28H, 28D, 28G). Law No. 17 of 2023 on Health and Law No. 12 of 2022 on Sexual Violence Crimes affirm the rights of individuals, including those with disabilities, ensuring equal legal standing for their testimonies. These provisions demonstrate Indonesia's commitment to protecting all citizens, particularly those with long-term impairments.[2-4]

The perception of women with disabilities

How to cite this article: Hardiyanti M, Natalis A. Ensuring Inclusive Justice for Women with Mental Disabilities Victimized by Sexual Violence: a Feminist Disability Studies Approach. J Forensic Med Sci Law. 2025;34(2):47-51. doi: 10.59988/jfmsl.vol.34issue2.9

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as weak and helpless heightens their vulnerability to sexual violence, as perpetrators often assume they will not report the abuse. Victims are frequently blamed and held responsible for the violence they endure. Studies show that women with disabilities are four times more likely to experience sexual violence than those without disabilities, with 11.1% reporting assaults by non-spousal perpetrators. According to Komnas Perempuan, gender-based violence (GBV) cases peaked in 2021 with 338,496 incidents, marking a 50% increase from 2020. Reports of sexual violence against women with disabilities varied over the years: 57 cases in 2017 and 2018, 69 in 2019, 87 in 2020, 77 in 2021, and 44 in 2022. Despite the fluctuations, the persistence of such violence highlights the continued vulnerability of women with disabilities.[5]

As a member of the Task Force for the Prevention and Handling of Violence in Higher Education Institutions, the author notes that women with mental disabilities require special attention due to their psychological instability when recounting traumatic events. One case involved a victim with Psychoaffective Disorder, Dissociative Identity Disorder, and Borderline Personality Disorder, who was sexually assaulted while semi-conscious in a hospital.[6-7] The perpetrator exploited her condition, highlighting the need for a feminist disability perspective to ensure justice and protection. This paper examines the accessibility of inclusive rights for such victims through a gender justice framework, focusing on mental health recovery and law enforcement's role in applying gender-sensitive, inclusive approaches.

2. The Urgency of Fulfilling Inclusive Access for Women with Mental Disabilities as Victims of Sexual Violence

a. Legal Obligations and Gaps

Sexual violence remains a critical public health issue, affecting millions annually through non-consensual acts such as coercion, intimidation, and abuse.[8-10,11,12,13] While factors like gender, age, and race have been explored in research, the vulnerability of individuals with disabilities—especially women with mental disabilities—remains underexamined. In Indonesia, the 1945 Constitution ensures rights to health, equality, and protection from violence, extending to individuals with disabilities. Law No. 17 of 2023 on Health and Law No. 12 of 2022 on Sexual Violence Crimes affirm the legal standing of testimonies from individuals with disabilities, reflecting a commitment to safeguarding their rights. However, the systemic challenges in addressing the unique needs of these individuals persist.

The Convention on the Rights of Persons with Disabilities (CRPD), ratified by Indonesia in 2011, mandates equal protection and participation for people with disabilities, including preventing and addressing sexual violence. This is further reinforced by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Despite these legal frameworks, cases like the 2022 sexual assault of a 23-year-old woman with intellectual disabilities in Jember highlight gaps in protection and rehabilitation efforts.[14] These cases underscore the need for comprehensive protection, including accessible reproductive health education and stronger collaboration between parents, educators, and authorities. Effective prevention and response require sensitivity, accessibility, and equality in support services and legal protection for women with mental disabilities.

b. Statistical Trends and Systemic Failures

The incidence of violence against women and children with disabilities has steadily increased. In 2023, the National Commission on Violence Against Women (Komnas Perempuan) reported 105 cases of violence against women with disabilities, up from 72 in 2022. These included 40 cases involving women with mental disabilities, 33 with sensory disabilities (vision, hearing, speech), 20 with intellectual disabilities, and 12 with physical disabilities. In 2021, Simfoni Perlindungan Perempuan dan Anak recorded 987 cases of violence against children with disabilities, with sexual violence being the most prevalent, accounting for 591 cases. The data suggests that many instances of sexual violence against women with mental or intellectual disabilities remain unreported, reflecting a deeper, systemic issue that goes unaddressed.[14]

This situation is compounded by the societal marginalization and patriarchy that women with disabilities face, particularly those with mental or intellectual disabilities, making them more vulnerable to sexual violence. A case observed by the researcher, involving a woman with borderline personality disorder (BPD), dissociative identity disorder (DID), and schizoaffective disorder, highlights the severity of the issue. The victim was assaulted in a hospital while in a semi-conscious state, with her mental condition partially contributing to the crime. Psychological states, including trauma responses and coping

mechanisms, are often exploited by perpetrators, leading to heightened vulnerability. This phenomenon underscores the need for comprehensive support systems and gender-sensitive protection for women with mental disabilities.

c. Case Analysis: Sexual Violence in Medical Contexts

The study by Rose Gholami Mazinan et al.[15] highlights that Borderline Personality Disorder (BPD) is a significant mental health condition, with a community prevalence estimated at up to 2.7%. The researchers assessed dissociative experiences in sexual contexts using a modified version of the German questionnaire Fragebogen zu dissoziativen Symptomen (FDS), which is based on the Dissociative Experience Scale (DES). Risky sexual behavior was evaluated through the Sexual Risk Survey (SRS), comprising 23 items categorized into five distinct groups: SRS Uncommitted (sexual interactions with unknown, untrusted, or unattached partners), SRS Risky (engagement in risky sexual acts such as unprotected vaginal or oral sex), SRS Impulsive (impulsive and spontaneous sexual encounters), SRS Intentional (purposeful participation in risky sexual activities), and SRS Anal (engagement in risky anal sex). Participants were asked to report how frequently they engaged in these sexual behaviors over a 12-month assessment period, using an open-ended format for their responses. This instrument has undergone forward-backward translation from English to German and has demonstrated high reliability, with Cronbach's α values of 0.88 or higher for all subscales, except for SRS Anal, which has a Cronbach's α of 0.69. Individuals diagnosed with BPD often have a history of sexual abuse, which may increase the likelihood of experiencing sexual dysfunction.[16]

The study's findings indicate that the researcher's expertise is supported by evidence showing that borderline personality disorder (BPD) can lead to impulsive sexual behaviour, potentially creating situations that increase vulnerability to sexual violence. Mental health and disability remain major global issues, including in Indonesia, where individuals with disabilities often face discrimination and human rights violations due to societal perceptions of weakness. According to Article 1(1) of Law No. 8 of 2016, persons with disabilities—whether physical, intellectual, sensory, or mental—have the right to participate fully in society. Similarly, Law No. 19 of 2011 emphasizes protection from torture, violence, and exploitation, while safeguarding the physical and mental integrity of persons with disabilities. Despite these legal protections, stigma and marginalisation persist, limiting access to education, employment, and public services. Therefore, ensuring inclusive rights for women survivors with mental disabilities who experience sexual violence requires strengthening support systems, counselling services, and legal enforcement, while imposing stricter penalties on perpetrators to address the complex trauma endured by victims.

3. The Feminist Disability Approach in Protecting Women with Mental Disabilities Who Are Victims of Sexual Violence

In Indonesia, the protection of sexual violence victims, including those with mental disabilities, is governed by Law No. 12 of 2022 on Criminal Acts of Sexual Violence and supported by the CEDAW, which aims to eliminate discrimination against women.[17] Despite these legal frameworks, cases of sexual violence remain prevalent, particularly affecting women with mental disabilities who face greater vulnerability. Such violence not only involves physical acts but also threats and coercion, often leading to deep psychological trauma and long-term mental health issues like PTSD, depression, and anxiety. Addressing this issue requires a feminist disability perspective that challenges the traditional medical view of disability and promotes inclusive recognition of women with disabilities. Feminist disability studies emphasize the importance of validating disabled identities, confronting stigma, and fostering narratives that affirm the social and political value of individuals with disabilities.[18-19]

According to Rosemarie Gerland-Thomson[20], feminist disability studies prioritizes the social implications of physical, mental, and emotional differences rather than concentrating on medical diagnoses or specific limitations. This perspective highlights how such bodies are frequently assigned stigmatizing and exclusionary meanings within society. This approach illustrates that, akin to social categories like "people of colour" or "queer," the term "disabled" includes a diverse range of experiences and identities, yet is simplistically consolidated as a group perceived as defective. Disability should be viewed not only as a biological condition but also as a social construct that leads to various forms of political, economic, and social discrimination.

Women and girls with disabilities face heightened risks of violence, including sexual and gender-based violence (SGBV), as a result of early discrimination, limited access to reproductive health education, and compounded discrimination stemming from both gender and disability. During armed conflict, this condition worsens as individuals frequently lose access to their community, familial support, educational opportunities, health services, and mobility aids like wheelchairs or prosthetics. The lack of access increases their susceptibility to various forms of violence, including physical, psychological, sexual, and financial, while simultaneously presenting considerable obstacles to reporting incidents and achieving justice.[21]

Instances of sexual violence against women with mental disabilities necessitate focused consideration, especially regarding the services available to support them in addressing their situations. This includes a spectrum of assistance, from counselling and legal advocacy to rehabilitation and the development of mental resilience, aimed at facilitating their reintegration into society and reducing the likelihood of recurring mental trauma.

Social services informed by intersectional feminism guarantee that the initiatives developed by social workers effectively meet the multifaceted needs of children affected by domestic violence, considering variables such as race, class, social experience, and cultural background. By adopting an intersectional feminist perspective, social workers can create interventions that are both culturally attuned and tailored to address the unique needs of individuals and families. This approach acknowledges the intricate nature and interplay of multiple factors that contribute to domestic violence. This perspective aims to foster the development of sustainable solutions that can significantly enhance the well-being of children and their families.[22,23]

To translate feminist disability studies (FDS) theory into practice within legal and social institutions, it is essential to highlight the intersection of gender and disability in the development of policies and interventions. Legal frameworks like Law No. 12 of 2022 on Criminal Acts of Sexual Violence should acknowledge not only the physical and emotional consequences of sexual violence but also incorporate a thorough understanding of the socio-political obstacles encountered by women with disabilities. The policy must adopt an inclusive framework that recognizes the varied experiences of disability, guaranteeing that legal services are accessible to women with mental disabilities and specifically designed to meet their unique requirements.[24,25] Social institutions and legal professionals need to undergo training aimed at recognizing the specific vulnerabilities faced by these women.[26,27] This training should ensure that victim support services effectively integrate feminist disability perspectives. This entails the development of systems that recognize and uphold the dignity, autonomy, and agency of women with disabilities. In the healthcare institution, sound and legally safe medical documentation is utmost important.[28]

Furthermore, social workers and legal advocates need to work together in creating services that are informed by trauma and inclusive of disabilities. These services should not only address immediate legal solutions but also encompass long-term psychological support, rehabilitation, and the process of reintegrating individuals into society. Integrating FDS theory into practical applications allows institutions to develop responses to sexual violence that are both equitable and effective, thereby empowering women with disabilities to experience dignity and justice.

4. Conclusion

Women with mental disabilities who experience sexual violence face multifaceted challenges, compounded by both their mental health conditions and the trauma of abuse. While Indonesia has ratified international conventions and enacted national laws, such as Law No. 12 of 2022 on Sexual Violence Crimes, the implementation of these protections remains inadequate. Accessibility barriers, limited support services, and the lack of inclusive mechanisms contribute to many cases going unreported, representing the “iceberg phenomenon” of hidden injustices. Stigma, discrimination, and insufficient protective measures deepen the suffering of these women.

A feminist disability and intersectional approach is crucial, recognizing that disability is not only a medical issue but also a social construct that leads to marginalization, particularly for women facing dual discrimination. Effective protection requires comprehensive services—including counseling, legal support, rehabilitation, and mental health recovery—that are tailored to the cultural, social, and psychological needs of victims. By integrating feminist disability studies with inclusive practices, it is possible to empower, support, and

ensure justice for women with mental disabilities who have experienced sexual violence, facilitating their recovery and reintegration into society with the dignity and respect they deserve.

Contributor ship of Author: All authors equally contributed. **Conflict of interest:** None to declare.
Source of funding: None to declare.

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