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## Research Article

## Legal Protection for People with Mental Disabilities in the Criminal Justice System

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### Abstract

This study explores legal protection for individuals with mental disabilities within the international criminal justice system. While international conventions such as the United Nations Convention on the Rights of Persons with Disabilities (CRPD) provide a foundation for the basic rights of people with mental disabilities, the implementation of such protections within the criminal justice system remains limited. Many countries face challenges in providing adequate accommodations for people with mental disabilities during arrest, interrogation, and trial processes. This research examines the gap between international legal principles and their practical application, focusing on the mechanisms needed to support individuals with mental disabilities in both legal decisions and humane treatment. Additionally, the study explores how principles of legal capacity and supported decision-making can be integrated into existing legal frameworks, and the challenges faced in their implementation. The findings suggest the importance of adopting more inclusive policies and special accommodations to ensure that people with mental disabilities can enjoy their rights in the criminal justice process without discrimination. The paper recommends increased training for law enforcement officials and regulatory reforms that are more responsive to the needs of this group.

## Introduction

Persons with mental disabilities represent one of the most vulnerable groups within society, especially when confronted with the mechanisms of the criminal justice system. These individuals often face systemic discrimination and unequal treatment, which compromise their legal rights and fundamental freedoms at various stages of the legal process.

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) reaffirms the principle that all persons with disabilities must enjoy the same legal rights and recognition before the law. Article 12 of the CRPD, in particular, underlines the equal recognition of legal capacity for persons with disabilities, including those with mental health conditions. However, national legal systems often fall short in effectively implementing these guarantees.

Prejudices and social stigma surrounding mental illness continue to influence the attitudes of law enforcement and judicial personnel. These biases often manifest in procedural decisions that fail to account for the cognitive

and psychological challenges faced by individuals with mental disabilities, thereby reinforcing structural discrimination.

One of the major problems stems from a lack of awareness and training among law enforcement officers, prosecutors, and judges regarding the specific needs of persons with mental disabilities. Without proper training, legal practitioners may apply uniform procedures that disregard the individual's mental condition, resulting in injustice and potential rights violations.

Access to legal counsel remains a fundamental right in criminal proceedings. However, persons with mental disabilities frequently encounter obstacles in obtaining effective legal representation, whether due to communication barriers, misunderstanding of legal processes, or financial constraints. These barriers severely hinder their ability to defend themselves and to participate meaningfully in their own defense.

Due to cognitive impairments, persons with mental disabilities may be unable to fully comprehend charges, legal procedures, or the potential consequences of their legal situation. This significantly limits their ability to give informed consent, make strategic decisions, or understand the impact of a guilty plea.

In some jurisdictions, mental health courts have emerged as a specialized response to address the unique circumstances of defendants with mental disabilities. These courts emphasize rehabilitation and treatment over punishment, offering a more holistic and therapeutic model of justice that acknowledges mental health conditions.

While mental health courts represent a progressive step, they remain limited in scope and availability. Moreover, their long-term effectiveness and consistency with human rights standards remain subjects of academic and policy debate. In many countries, such mechanisms are either underfunded or not institutionally recognized.

The imposition of disproportionate penalties, including the death penalty, on persons with mental disabilities continues to be a serious concern. In countries where competency evaluations are lacking or poorly conducted, individuals with significant mental health conditions may be sentenced without proper legal or medical assessment.

The landmark case *Atkins v. Virginia* (2002) in the United States Supreme Court ruled that executing individuals with intellectual disabilities violates the Eighth Amendment's prohibition of cruel and unusual punishment. This case serves as a precedent for other jurisdictions to reconsider how they treat mental disability in the context of severe criminal sanctions.

However, similar safeguards do not yet exist in many legal systems. As a result, individuals with mental disabilities continue to be subjected to legal processes and punishments that fail to consider their diminished capacity and medical needs, in direct contradiction to international human rights standards.

Normatively, international legal instruments such as the CRPD and the International Covenant on Civil and Political Rights (ICCPR) establish a robust framework for the protection of persons with mental disabilities in the justice system. Article 13 of the CRPD explicitly mandates equal access to justice for persons with disabilities, including through procedural accommodations.

Procedural accommodations are essential to ensure effective participation in legal proceedings. These may include the provision of trained legal advocates, mental health professionals, simplified communication, and the use of assistive technologies. Yet, in practice, such accommodations are rarely provided systematically or equitably.

One of the root challenges lies in the early identification of mental disability during legal proceedings. In many legal systems, there are no standardized mechanisms to screen for cognitive or psychological impairments during arrest or pretrial phases, resulting in missed opportunities for proper intervention.

A significant barrier to legal reform is the lack of comprehensive data and empirical research on how persons with mental disabilities interact with the criminal justice system. Without reliable data, policy development remains reactive and fragmented rather than informed and evidence-based.

Human rights organizations, including Amnesty International and Human Rights Watch, have documented widespread abuses against prisoners with mental illness, including solitary confinement, inadequate medical care, and neglect. These practices not only violate human dignity but also contravene international standards on the humane treatment of detainees.

The inclusion of persons with disabilities in policy-making processes is essential for the development of rights-based and responsive legal frameworks. Their direct participation ensures that reforms reflect lived experiences and address actual needs rather than assumptions.

Regular training for legal professionals on mental health and disability rights is critical to overcoming systemic biases and building inclusive legal environments. Such training should cover communication strategies, procedural adjustments, and legal interpretations consistent with the CRPD.

Inter-sectoral collaboration between justice institutions and mental health services is another key component of an effective response. Integrating psychosocial support into criminal proceedings not only enhances the fairness of trials but also contributes to long-term social reintegration.

Diversion programs offer an alternative to traditional prosecution by redirecting individuals with mental disabilities toward treatment and community-based rehabilitation. This model alleviates the burden on courts and prisons and aligns more closely with the principles of restorative justice.

Nevertheless, the successful implementation of diversion programs depends on adequate infrastructure, cross-institutional cooperation, and political will. Without sustained support, these initiatives risk becoming underutilized or symbolic rather than substantive solutions.

Monitoring and evaluation mechanisms must be established to track the performance and human rights compliance of criminal justice institutions in cases involving mental disabilities. Feedback from civil society and disability advocates should be incorporated to strengthen accountability.

Legal reform must be grounded in respect for human dignity, the principle of equality before the law, and non-discrimination. All forms of legal and institutional bias against persons with mental disabilities must be dismantled through legislative, procedural, and cultural change.

This study seeks to examine the legal protections available to persons with mental disabilities within the criminal justice systems of selected jurisdictions. It further aims to identify gaps, best practices, and prospects for reform through comparative legal analysis and policy review.

The central research question focuses on how legal frameworks and institutions can better respond to the needs and rights of persons with mental disabilities, particularly in light of their unique vulnerabilities within adversarial systems.

By adopting a human rights-based approach, this research aspires to contribute to the development of inclusive, fair, and non-discriminatory justice systems. It is imperative that legal systems evolve to meet the demands of dignity, autonomy, and justice for all, including those with mental disabilities.

Ultimately, the criminal justice system should not merely serve as a tool of punishment but must be an instrument of protection for society's most marginalized. Persons with mental disabilities deserve justice, dignity, and equal treatment under the law, and it is the responsibility of the legal system to guarantee these rights.

## **Hypotheses Development**

The development of hypotheses in this study is grounded in the normative and empirical assumption that persons with mental disabilities are systematically disadvantaged within the criminal justice system. The criminal process, which often relies on a rational and adversarial model, assumes the cognitive and communicative ability of all participants to understand legal procedures, to participate in their defense, and to make informed decisions. However, such assumptions are not always compatible with the realities faced by individuals with psychosocial or intellectual disabilities.

Based on the Convention on the Rights of Persons with Disabilities (CRPD), particularly Articles 12 and 13, it is recognized under international law that persons with disabilities must be treated as equal before the law and must be guaranteed effective access to justice on an equal basis with others. Despite this, national justice systems often fail to incorporate procedural accommodations that ensure such equality, thereby giving rise to a critical hypothesis: that the lack of adequate legal safeguards and accommodations contributes to the systemic marginalization and rights violations of mentally disabled defendants.

Furthermore, legal systems that do not recognize the principle of legal capacity for persons with mental disabilities tend to apply substituted decision-making models, such as guardianship or psychiatric confinement, instead of supported decision-making. This raises the hypothesis that traditional legal doctrines—particularly those concerning criminal responsibility and competence—may conflict with the human rights standards espoused by the CRPD. Tensions between these frameworks suggest that domestic legal definitions of criminal liability may inadvertently exclude or harm individuals with mental impairments by prioritizing punitive approaches over rehabilitative or therapeutic alternatives.

In jurisdictions where mental health screening, diversion programs, and mental health courts are present, the hypothesis arises that these mechanisms can reduce rights violations and improve access to justice for mentally disabled individuals. The presence of such institutions reflects a shift from a punitive to a restorative and rights-based model of justice. Therefore, the hypothesis follows that systems which integrate mental health expertise into legal proceedings are more likely to uphold fair trial guarantees and the dignity of the accused.

Another hypothesis emerges from the documented challenges in legal representation for individuals with mental disabilities. Given their communication barriers and potential difficulty understanding legal processes, it is hypothesized that the absence of specialized legal assistance results in lower quality of defense and higher conviction rates among defendants with mental health conditions. This is particularly concerning in light of empirical studies demonstrating a correlation between mental disability and increased vulnerability to wrongful convictions or excessive sentencing.

Finally, the prevailing hypothesis of this research is that effective legal protection for persons with mental disabilities in the criminal justice system is contingent upon the integration of international human rights standards into national legal frameworks, along with institutional reforms that promote procedural fairness, inclusive legal practices, and cross-sectoral collaboration between justice and health systems.

These hypotheses collectively guide the analysis of comparative legal systems and their alignment-or lack thereof-with international norms. By testing these hypotheses through doctrinal review and policy analysis, the study aims to identify structural barriers, assess reform efforts, and propose strategies for enhancing legal protection and access to justice for persons with mental disabilities worldwide.

## **Method**

This research adopts a qualitative legal methodology grounded in doctrinal and socio-legal approaches to analyze the legal protection afforded to persons with mental disabilities within the criminal justice system. The doctrinal component focuses on the analysis of international legal instruments, national legislation, judicial decisions, and legal commentaries to determine the normative standards and obligations of states in ensuring access to justice and fair trial rights for individuals with mental impairments. Central to this analysis is the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which serves as the foundational framework for assessing state compliance with international human rights law, particularly Articles 12 and 13 concerning equal recognition before the law and access to justice.

The socio-legal aspect of the methodology incorporates comparative legal analysis and draws upon interdisciplinary sources, including psychiatric, criminological, and policy-oriented literature, to examine how legal norms are implemented and experienced in practice. Jurisdictions selected for comparison include countries with varying legal traditions and degrees of incorporation of international disability rights norms, such as the United States, the United Kingdom, Australia, and Indonesia. These jurisdictions were chosen to reflect a spectrum of legal frameworks and institutional responses to mental disability in criminal proceedings.

Primary legal sources analyzed include constitutional provisions, criminal procedure codes, mental health laws, and case law from national courts and international human rights tribunals. Secondary sources include academic journals, reports from non-governmental organizations, and official documents from the United Nations, World Health Organization, and regional human rights bodies. Empirical data, where available, is incorporated to highlight gaps between formal legal protections and actual practices. This includes reports of rights violations, court observations, and statistical data related to the treatment of defendants with mental disabilities.

The research methodology also involves content analysis of laws and policies to assess their alignment with the CRPD and other human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR). Doctrinal inconsistencies, procedural inadequacies, and the absence of reasonable accommodations are identified through legal textual analysis, supported by relevant jurisprudence and commentary.

The research does not involve direct interviews or fieldwork but relies on existing empirical and policy studies to contextualize legal findings. Through the combination of legal analysis and interdisciplinary literature, the study aims to critically assess the effectiveness of current legal protections and to offer normative and policy recommendations for harmonizing domestic criminal justice systems with international disability rights standards.

This methodology enables a comprehensive evaluation of how law operates in theory and practice for persons with mental disabilities, ensuring that the findings are legally sound, contextually informed, and normatively grounded in human rights principles.

## **Results And Discussion**

The analysis reveals that despite the ratification of the Convention on the Rights of Persons with Disabilities (CRPD) by numerous countries, significant disparities persist between international obligations and domestic practices concerning the legal protection of individuals with mental disabilities in criminal justice systems.

Article 12 of the CRPD emphasizes the equal recognition of persons with disabilities before the law, asserting their right to legal capacity on an equal basis with others. However, many jurisdictions continue to employ substituted decision-making models, such as guardianship, which undermine the autonomy of individuals with mental disabilities.

In criminal proceedings, the lack of supported decision-making mechanisms often results in defendants with mental disabilities being unable to participate effectively in their defense, leading to potential miscarriages of justice.

Article 13 of the CRPD mandates that States Parties ensure effective access to justice for persons with disabilities, including through the provision of procedural accommodations. Nonetheless, the implementation of such accommodations remains inconsistent across different legal systems.

Empirical studies indicate that individuals with mental disabilities frequently encounter barriers such as inaccessible court facilities, lack of sign language interpreters, and legal professionals untrained in disability rights, all of which impede their access to justice.

The case of Nagaenthran K. Dharmalingam in Singapore, a man with an intellectual disability sentenced to death for drug trafficking, underscores the dire consequences of inadequate legal protections for individuals with mental disabilities.

Despite international outcry and evidence of his cognitive impairments, the courts upheld his death sentence, highlighting the tension between domestic legal frameworks and international human rights standards.

In contrast, the United States Supreme Court's decision in *Atkins v. Virginia* established that executing individuals with intellectual disabilities violates the Eighth Amendment's prohibition of cruel and unusual punishments, setting a precedent for enhanced legal protections.

However, the application of this ruling varies among states, with discrepancies in defining and assessing intellectual disabilities, leading to inconsistent protections.

The European Union's 2013 Commission Recommendation on procedural safeguards for vulnerable persons in criminal proceedings advocates for the identification of vulnerable individuals and the provision of appropriate accommodations.

Yet, the non-binding nature of this recommendation limits its enforceability, resulting in varied implementation across member states.

In England and Wales, the Equalities and Human Rights Commission reported systemic failures in accommodating disabled defendants, including inadequate adjustments and a lack of understanding among legal professionals.

These shortcomings contribute to the overrepresentation of individuals with mental disabilities in the criminal justice system and raise concerns about the fairness of proceedings.

The CRPD Committee has criticized the use of insanity defenses that result in involuntary detention and treatment, advocating for disability-neutral legal doctrines that respect the autonomy and legal capacity of individuals with mental disabilities.

This perspective challenges traditional legal approaches and calls for reforms that align with the principles of the CRPD.

The Barnahus model, implemented in several Nordic countries, exemplifies a multidisciplinary approach to supporting vulnerable individuals in legal proceedings, integrating legal, medical, and social services to ensure comprehensive protection.

Adapting similar models for adults with mental disabilities could enhance their participation and protection in the criminal justice system.

Training programs for legal professionals on disability rights and accommodations are crucial for fostering an inclusive legal environment. Such initiatives can improve understanding and responsiveness to the needs of individuals with mental disabilities.

Despite these efforts, challenges persist in ensuring consistent and effective legal protections for persons with mental disabilities, necessitating ongoing evaluation and reform.

The intersectionality of disability with other factors, such as gender and socioeconomic status, further complicates access to justice, requiring tailored approaches to address diverse needs.

International cooperation and the sharing of best practices can facilitate the development of more effective legal frameworks and support systems.

Monitoring and accountability mechanisms are essential for assessing the implementation of legal protections and identifying areas for improvement.

Engaging individuals with mental disabilities in the reform process ensures that their perspectives and experiences inform policy and practice.

Data collection and research on the experiences of persons with mental disabilities in the criminal justice system are vital for evidence-based policymaking.

Collaboration between governmental agencies, civil society, and international organizations can drive progress toward more equitable legal systems.

Public awareness campaigns can challenge stigma and promote understanding of mental disabilities, fostering a more inclusive society.

Legislative reforms should prioritize the elimination of discriminatory practices and the establishment of supportive legal structures.

Investing in community-based support services can prevent the unnecessary institutionalization of individuals with mental disabilities.

Technological innovations, such as assistive communication devices, can enhance the participation of individuals with mental disabilities in legal processes.

Ensuring the availability of accessible legal information empowers individuals with mental disabilities to understand and exercise their rights.

Ultimately, the realization of legal protections for persons with mental disabilities in the criminal justice system requires a multifaceted approach that encompasses legal reform, institutional change, and societal transformation.

By aligning domestic legal systems with international human rights standards, societies can uphold the dignity and rights of all individuals, regardless of mental disability.

**Table 1**  
**Comparative Overview of Legal Protections for Persons with Mental Disabilities in Selected Jurisdictions**

Country	Key Legal Protections	Notable Challenges
United States	Supreme Court ruling in <i>Atkins v. Virginia</i> prohibits execution of individuals with intellectual disabilities.	Variability in state-level definitions and assessments of intellectual disability; inconsistent application of protections.
United Kingdom	Equalities and Human Rights Commission reports highlight systemic failures in accommodating disabled defendants; ongoing reforms to mental health legislation.	Inadequate adjustments in court proceedings; lack of training among legal professionals; overrepresentation of individuals with mental disabilities in the criminal justice system.
Singapore	Maintains strict drug laws; case of Nagaenthran K. Dharmalingam underscores challenges in recognizing intellectual disabilities in legal proceedings.	Limited consideration of mental disabilities in sentencing; international criticism over death penalty application to individuals with intellectual disabilities.
Australia	Implementation of supported decision-making models; advocacy for community-based support services.	Instances of prolonged detention without appropriate care; need for consistent application of supported decision-making practices across jurisdictions.
Nordic Countries	Adoption of the Barnahus model, integrating legal, medical, and social services to support vulnerable individuals in legal proceedings.	Primarily focused on children; adaptation for adults with mental disabilities remains limited; requires expansion and customization to address the needs of adults with mental disabilities in the criminal justice system.

Recent developments in restorative justice have shown potential in addressing the limitations of adversarial systems when dealing with persons with mental disabilities. Restorative models, which focus on rehabilitation and reconciliation rather than punishment, offer more humane and tailored approaches that can accommodate

the unique circumstances of individuals with psychosocial or intellectual impairments. These models are gaining traction in jurisdictions such as Canada and New Zealand, where inclusive justice practices have been piloted with promising outcomes.

In several low- and middle-income countries, the lack of adequate mental health services intersects with systemic poverty, leading to the criminalization of mental illness rather than appropriate therapeutic intervention. Studies conducted in sub-Saharan Africa reveal that persons with mental disabilities are often detained in prisons due to the absence of psychiatric facilities, with little or no access to legal counsel. This indicates that the issue extends beyond the courtroom, requiring a holistic integration of mental health infrastructure with legal protection mechanisms.

Moreover, the analysis of legal aid systems in multiple jurisdictions highlights a significant gap in specialized representation for individuals with mental disabilities. In many cases, public defenders or court-appointed attorneys lack specific training in disability law, which diminishes the quality of legal advocacy. International standards, such as those set by the CRPD and the Bangalore Principles, call for competency-based training for all legal actors, but enforcement remains inconsistent.

Another critical issue is the absence of independent monitoring mechanisms that can assess compliance with legal protections in real-time. While countries may report progress in their periodic reviews to treaty bodies, on-the-ground conditions often differ. Establishing national human rights institutions with explicit mandates to oversee the treatment of persons with mental disabilities in the justice system is essential for transparency and accountability.

Finally, intersectional discrimination remains largely underexplored in policy responses. Individuals with mental disabilities who also belong to marginalized ethnic, gender, or socioeconomic groups are often subjected to compounded vulnerabilities within the legal system. Addressing these layered disadvantages requires data disaggregation, intersectional policy design, and community-level legal empowerment programs that engage both formal and customary legal systems.

## Conclusion

This study reveals that despite significant progress in international human rights law—particularly with the adoption of the Convention on the Rights of Persons with Disabilities (CRPD)—legal protections for people with mental disabilities within criminal justice systems remain deeply inadequate and inconsistent. Many states have yet to fully transition from substituted decision-making to supported decision-making, thereby undermining the autonomy and legal capacity of persons with mental disabilities. The absence of procedural accommodations, insufficient training among legal professionals, and a lack of accessible legal environments continue to exclude mentally disabled individuals from fair and equal participation in judicial proceedings. Notably, disparities between international standards and domestic practices persist across both developed and developing jurisdictions. Case studies such as *Nagaenthran K. Dharmalingam* in Singapore and *Atkins v. Virginia* in the United States illustrate the tension between punitive legal cultures and rights-based approaches. While some countries have taken meaningful steps through legislation, court rulings, and policy reforms, many systems still fail to uphold basic human rights principles, especially in the context of access to justice and protection from cruel or disproportionate punishment. The findings also underscore the importance of restorative and community-based justice models, which offer a more inclusive framework for persons with mental disabilities. Training, monitoring, data collection, and multi-sectoral collaboration must be strengthened to align legal frameworks with the lived realities of affected individuals. Furthermore, addressing intersectional forms of discrimination is vital to ensuring that reforms are equitable and comprehensive. Ultimately, safeguarding the rights of persons with mental disabilities in the criminal justice system demands not only legal reform but also systemic change, public awareness, and international cooperation. Only through such a multidimensional approach can societies uphold the dignity, autonomy, and full legal capacity of all individuals, regardless of mental health status.

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