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LEGAL ASPECTS OF PATIENTS IN RESTRAINT, SECLUSION AND CONFINEMENT: A THEMATIC ANALYSIS

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Abstract

Patient violence poses a real risk to themselves, others and environment. Violent behaviors can be controlled through restraint and seclusion at mental hospital and confinement at community. There are no specific policies and legal aspects concerning restraint, seclusion and confinement in Indonesia. **Purpose of this study:** *This study aimed to analyze policies and legal aspects concerning restraint, seclusion and confinement in Indonesia and foreign countries.* **Method:** *It was a qualitative study using thematic analysis that analyzed 8 foreign documents and 7 Indonesian documents. It analyzed the similarities and differences of legal aspects concerning restraint, seclusion and confinement based on the documents.* **Results:** *Themes from foreign countries were (1) restraint, seclusion and confinement as the last intervention; (2) family empowerment;(3) humanizing patients with restraint, seclusion and confinement; (4) safety and comfort of restraint, seclusion and confinement intervention for patients; (5) safety and comfort of restraint, seclusion and confinement intervention for nurses. Themes from Indonesia were (1) safety and comfort of restraint, seclusion and confinement intervention for patients and nurses; (2) protection against human.* **Discussion:** *Indonesia must have specific regulation about restraint, seclusion and confinement for mental disorder.* **Conclusion:** *This study provides an overview of the policies implemented in Indonesia.*

Keywords: *Legal Aspect; Confinement; Policies; Restraint; Seclusion*

INTRODUCTION

Patients with mental disorder poses high risk of violence to themselves, others, and the environment (Aras, 2014). Violent behaviors include harsh words (60%) (acts of violence towards objects (29%) and violence towards themselves (19%) Because such typical signs and symptoms, health workers or people around the patients provide special treatment to overcome these behaviors (Foster, Bowers, & Nijman, 2007; Bobes, Fillat, & Arango, 2009).

Treatments that are often given in a mental hospital are restraint and seclusion, while in the community will be treated through confinement (Minas & Diatri, 2008). Restraint and seclusion are interventions to control patients performed by professionals, while confinement is controlled by ordinary or non-professional people (Minas & Diatri, 2008).

Indonesia actually has a policy on restraint, seclusion and confinement. Restraint and seclusion in Indonesia had previously been prohibited through the Letter of Minister of Home Affairs number PEM.29/6/15 of 1977 (Ministry of Health Republic of Indonesia, 2010), containing the prohibition of confinement in mental patients, and the public

was expected to bring patients with mental disorders to be treated in mental hospitals, so that patients considered harmful to themselves and the environment could be treated in the hospitals. However, this policy was not really heeded by the Indonesian people.

After searching literatures, it was found out that Indonesia does not have legal aspects, policies or specific regulations that govern restraint and seclusion for clients with mental disorders. There are laws and regulations regarding restraint and seclusion, but they are not specific. Restraint, seclusion and confinement in Indonesia do not have legal aspects and proper standards for patients and nurses as guidelines to implement them. If the legal aspects of restraint, seclusion and confinement exist in Indonesia, it is expected that the number of restraint, seclusion and confinement in the community will decrease and will no longer be detrimental to patients and nurses. Therefore, researchers attempted to examine the existing regulations in developed countries to be considered as references to make legal aspects, policies, and regulations concerning the use of restraint, seclusion and confinement in Indonesia.

METHODS

This was a qualitative study using thematic analysis approach. The thematic analysis focuses on a particular theme that aims to further find out insufficient detail and prove a case relating to a particular theme (Braun & Clarke, 2006). This study analyzed 8 foreign documents and 7 Indonesia documents. The foreign documents were searched through Google using several keywords such as legal aspect, policy, restraint, seclusion and confinement. The documents were searched from January to April 2014. They were open access, taking the forms of standards or policies from government or institute, and had contents about restraint, seclusion and confinement.

This study separately analyzed Indonesian documents and foreign documents. It employed the steps of thematic analysis proposed Boyatzis (1998) (Fereday & Muir-Cochrane, 2006), collecting data, developing codes, performing test of codes for consistency, and connecting each code. This study found the similarities and differences of legal aspects concerning restraint, seclusion and confinement based on the documents. The ethical clearance for this study was obtained from the Faculty of Nursing, University of Indonesia.

RESULTS

This study found 8 foreign documents and 7 Indonesia documents in range 2008 -2014. The documents were from the United Kingdom (Department of Health, Social Services and Public Safety, 2005), the .United States of America (Department of Health and Human Services, 2012), Australia (Ministry of Health New South Wales, 2012), Ireland (Mental Health Commissions, 2012), Canada (Emanuel, et al., 2013) South Africa (Department of Health Republic of South of Africa, 2012), New Zealand (New Zealand Standard, 2008) and Indonesia (Law of the Republic of Indonesia No. 36 of 2009 concerning Health, 2009); Directorate of Mental Health of Ministry of Health of the Republic of Indonesia, 2012; Provincial Government of West Nusa Tenggara, 2013; Dr. Marzoeki Mahdi Bogor Hospital, 2014; Grashia Yogyakarta Hospital, 2014; Tampan Mental Health Hospital, 2014; Dr. Soeharto Heerdjan Jakarta Mental Health Hospital, 2014).

These documents were analyzed by seeking for their similarities and differences in legal aspects and policies concerning restraint, seclusion and confinement. There were five themes as shown in Table 1. The themes from foreign documents were (1) restraint, seclusion

and confinement as the last intervention; (2) family empowerment;(3) humanizing patients in restraint, seclusion and confinement; (4) safety and comfort of restraint, seclusion and confinement intervention for patients; (5) safety and comfort of restraint, seclusion and confinement intervention for nurses. Meanwhile, the themes from Indonesian documents were (1) safety and comfort of restraint, seclusion and confinement intervention for patients and nurses; (2) protection against human. The themes were then categorized. There were 25 categories found in foreign documents and Indonesia, which show that Indonesia has several important components in the implementation of restraint and seclusion in mental hospitals. The results of searching documents showed many important points in the policies of restraint, seclusion and confinement in Indonesia.

The components that do not exist in the policies and legal aspects concerning restraint and seclusion in Indonesia are implementation of restraint and seclusion as the last intervention, family empowerment, implementation of restraint and seclusion not as a punishment, duration of restraint and seclusion in the shortest possible time, provision of clothes for patients, same sex for staff and patients, and opportunity for patients and caregivers to express their feeling after the implementation of restraint and seclusion.

Similarities found in the document analysis were that Indonesia had 6 categories, namely providing patient's needs (eating, drinking and using the toilet), not discriminating against patients, providing facilities for restraint and seclusion, protecting patients, monitoring and observing patient's safety, training staff before being assigned.

This study would analyze similarities and differences as whether they could be a picture of the needs of the legal aspects in Indonesia. An overview of the needs for policy and legal aspects in Indonesia is the statement to use restraint and seclusion as the last intervention and if other alternatives do not work; implementation of restraint and seclusion not as a punishment; duration of restraint and seclusion in the shortest possible time; provision of clothes to patients, same sex of staff and patients; cultural consideration in the implementation of restraint, seclusion and confinement, release of mental patients in confinement, maintenance of patient's physical safety; restraint and seclusion not simultaneously performed; restraint, seclusion and confinement tools not hurting patients, and availability of emergency equipment in case of emergencies in patients in the restraint and seclusion room for hospital and staff safety.

DISCUSSION

Restraint, seclusion and confinement as the last intervention

Restraint, seclusion and confinement are the last intervention to patients due to their negative impacts. The results of analysis indicated that the foreign documents showed that restraint and seclusion are the last intervention to mental patients, restraint and seclusion in mental disorders are emergency intervention, and restraint and seclusion are taken if non-restrictive alternative is not successful.

In the current standard in Indonesia it can be seen that there are no policies that restraint, seclusion and confinement should be implemented in patients with mental disorders. The above similarities indicate that the implementation of restraint, seclusion and confinement are the last intervention given to patients with mental disorders. A study mentions that the last intervention is one of the ways to reduce restraint and seclusion in the hospital. Huckshorn (2006) also states that it is better to

Table 1. Similarities and Differences in Legal Aspect of Patients in Restraint, Seclusion and Confinement in Indonesia and Foreign Countries

No	Theme	Category	Foreign Documents	Indonesian Documents
1	Restraint, Seclusion and Confinement as the last intervention	The last intervention	Yes	No
		Other interventions do not work	Yes	No
2	Family empowerment in implementing restrain, seclusion and confinement	Collaborating with families in implementing restraint, seclusion and confinement	Yes	No
		Providing information to families about the implementation of restrain, seclusion and confinement	Yes	No
		Patient's right to be accompanied by the family	Yes	No
3	Humanizing patients in restrain, seclusion and confinement	Providing information to patients and families about the implementation of restraint, seclusion and confinement, and to nurses	Yes	Yes
		Restraint and seclusion are not punishment	Yes	No
		The shortest possible duration of restraint and seclusion	Yes	No
		Giving clothes to patients	Yes	No
		Same sex between staff and patients	Yes	No
		Providing patient needs (eating, drinking and using the toilet)	Yes	Yes
		Considering culture in the implementation of restrain, seclusion and confinement	Yes	No
		Not discriminating against patients	Yes	Yes
		Availability of facilities for restraint and seclusion	Yes	Yes
		Protecting patients	Yes	Yes
		Releasing mental patients in confinement	Yes	No
4	Safe and comfortable restraint, seclusion and confinement for patients	Indications of restraint, seclusion and confinement	Yes	Yes
		Maintaining physical safety of patients	Yes	No
		Not implementing restraint and conclusions simultaneously	Yes	No
		Restraint, seclusion and confinement not hurting patients	Yes	No
		Monitoring and observing patient safety	Yes	Yes
		Availability of emergency equipment in case of emergencies in patients in restraint and at hospital	Yes	No
		Training staff before being assigned to restraint and seclusion rooms.	Yes	Yes
		Therapeutic communication	Yes	Yes
5	Safe and comfortable restrain, seclusion and confinement for nurses	Staff training	Yes	Yes

make restraint, seclusion and confinement as an alternative of "doing nothing" to reduce the risk of negative impact on patients and caregivers. This is in accordance with the confinement in Indonesia that it should not be applied in the community because there are alternatives to bring the patients to the nearest hospital or health service to control their behavior.

Until now, restraint, seclusion and confinement still have more disadvantages than advantages. UN reports declared that restraint, seclusion and confinement are cruel and urged

all mental health services not to implement restraint, seclusion and confinement (McSherry, 2013). Restraint, seclusion and confinement can be reduced by early identification and assessment performed on mental patients first. The results of a study showed that the assessment and early identification can reduce the number of restrictions on mental patients (Roles, Gouge, & Smith, 2014). Thus, restraint, seclusion and confinement are no longer the last thing to do, but they are something that are prevented and avoided as much as possible. Therefore, Indonesia can establish a policy specifically stating that restraint and seclusion in the hospital is the last intervention is used. Meanwhile, confinement is no longer implemented in Indonesia because it is a non-professional intervention in the community to patients with mental disorders.

Family empowerment in restraint, seclusion and confinement

Family is the biggest support for patients with mental disorders, in which the family will give strength to the patients in the form of self-concept, behavior, expectations, values and beliefs (Stuart, 2009). Family is very important for patients with mental disorders because they are the main support when patients go through difficult times (Rothon, Goodwin, & Stansfeld, 2012). In particular, when the patient is given information about mental disorders that may endanger himself/herself and the environment, the family is bound to participate in decision making to implement restraint and seclusion to the patient. In addition, regarding the implementation of confinement in the community, the family plays a considerable role in making decision on whether to implement it or not.

The results of a study showed that the role of the family is very influential in making decision on confining patients (Daulima, et al., 2014). However, of course, confinement is not a therapeutic intervention as in hospitals and this procedure is not an appropriate intervention to control patients' behavior. The results of a study showed that family involvement in decision-making on an intervention can increase the success of the interventions performed on patients (Heru, 2006). Therefore, it is necessary for family and patients to make decisions in the implementation of restraint and seclusion in hospitals and to provide health education to families about the confinement in order to other incidents in the community.

One of the important points from the results of studies that there is a role family in reducing the implementation of restraint and seclusion (Scanlan, 2010). This conclusion can certainly be a basis that should belong to the theme of empowering families which must be put in the policy and legal aspects of restraint, seclusion and confinement in Indonesia.

Humanizing patients in restraint, seclusion and confinement

Humanizing humans is one of the concepts that respect human rights means respect for human dignity (United Nations, 2014). Based on the analysis in this study, there are several categories to humanize patients in restraint, seclusion and confinement, namely providing information to patients and families about the implementation of restraint, seclusion and confinement; implementing restraint and seclusion not as a punishment; implementing restraint and seclusion in the shortest duration; providing clothing for patients; having same sex between staff and patients; providing needs and convenient facilities (eating, drinking and using the toilet) for patients; considering the culture in implementing restraint, seclusion and confinement; and not discriminating against patients. Meanwhile, patients with mental disorders considered as humans are also mentioned in the policy and legal aspects, namely availability of facilities in Indonesia

for restraint and seclusion, informed consent for patients and families, protection to patients, fulfilment of the basic needs of patients, and release of patients with mental disorders in confinement.

The similarities of all the units of analysis show that there are policies on seclusion, restraint and protection of human rights in foreign countries. Provision of information to families and patients at the time prior to restraint and seclusion is almost done by all countries, namely Australia, United States, Canada, South Africa, New Zealand. These countries uphold human rights. The theme of humanizing humans in the implementation restraint, seclusion and confinement in patient with mental disorders makes restraint, seclusion and confinement not as a punishment. Almost every country put it in the legal aspects and policies on restraint and seclusion. Every patient is entitled to freedom of violence, so it is not justifiable to make restraint and seclusion in the hospital for patients with mental disorders as a punishment. The International Bill of Human Rights states that everyone is entitled not to get violence either physical or mental violence (UNFPA, 2013).

If restraint, seclusion or confinement are implemented for reason of punishing patients, individuals or organizations have violated human rights. It can be concluded that Indonesia should consider the point not to make restraint, seclusion and confinement as a punishment in the legal aspects and policies. Law of the Republic of Indonesia No. 36 of 2009 concerning health Article 149 states that patients with mental disorders who are displaced, homeless, threatening the safety of themselves and / or someone else, and/ or disturbing the peace and/or public safety must get treatment and care in health service facilities. Therefore, this rule should expressly exist in the policy and legal aspects concerning restraint, seclusion and confinement in mental patients in Indonesia.

Protection of human rights for patients is realized in the implementation of restraint, seclusion and confinement in the shortest possible duration. The documents of each country show a variety of duration for restraint and seclusion in mental hospitals. Basically, there is no international standard for the duration, but the principle is the shortest duration and taking clinical assessment, medication effects and safety reasons into consideration (Bergk, Einsiedler, & Steinert, 2008). The frequency and duration of the implementation of restraint and seclusion in every country are different due to differences in culture, values and mental health systems (Bowers, et al., 2007). The Joint Commission (JoCH) was established in 2001 for the assessment and evaluates once every 1 hour (The Joint Commission, 2009). Therefore, the duration for implementing restraint and seclusion at hospitals should be carried out with the shortest possible time to respect patients' human rights. Their rights are violated if the restraint and seclusion are implemented in a long duration.

Human rights in confined patients are also been violated. Patient's right to obtain the shortest possible duration does not apply to patients in confinement. Patients have lost their freedom in the community for more than 21 years (Minas & Diatri, 2008). Obviously, this is a very serious violation against human rights and should be incorporated into policies on restraint, seclusion and confinement in Indonesia. Their rights can be protected by providing clothing, basic necessities such as food, drinks and use of toilets. Respect for patients with mental disorders means respecting the dignity of patients as humans. It is stated in the Law of the Republic of Indonesia No. 36 of 2009 article 148 paragraph 1, which states that patients with mental disorders have the same rights as other healthy men as Indonesian

citizens. It is also explained in article 148 paragraph 2 that patients with mental disorders get the same treatment for every aspect of life. It means that patients with mental disorders in restraint, seclusion and confinement in general should be respected other human beings by giving clothes, food and drink and proper use of toilets.

The results of the analysis of foreign documents about the other right of patients indicate that patients must be restrained, secluded and intervened by nurses or other staff of the same sex as the patient. The results of a study show that accident rates increase when female patients are handled by male staff, and if male patients are handled by female staff, the number of accidents and abuse increases as well (Ministry of Health NSW, 2012). So is the risk of sexual violence, so that patients are entitled to the intervention by nurses or staff with the same sex (The Australian Council on Healthcare Standards, 2012). Of course, this fact makes it possible that restraint and seclusion in Indonesia are carried out by staff or nurses who apply the same sex as patients. This is because previously there has been no documented statement of the same sex between staff and patients. Human rights must be protected in the implementation of restraints, seclusion and confinement with respect for culture, spiritual, language, ethnicity and without discrimination against patients.

Safe and Convenient Restraint, Seclusion and Confinement for Patients

Safety in the implementation of restraint and seclusion of patients is very important. the Theme of safe and comfortable restraint and seclusion for patients in this research can be grouped into several categories, namely maintaining patient's physical safety; not implementing restraint and seclusion simultaneously; providing restraint and seclusion tools that do not hurt patient's leg; monitoring and observing patient safety and availability of emergency equipment in case of emergency in patients in the restraint and seclusion room of the hospital; and staff must be trained before being assigned in the restraint and seclusion room. Patient safety is a priority. The high mortality rate in patients with psychiatric disorders shows the importance of patient safety in the implementation of restraint and seclusion (Haimowits, Urff & Huckshorn, 2006; SAMHSA, 2010). Therefore, the implementation of restraint, seclusion and confinement should pay attention to safety, starting from protecting airway, chest, abdomen; otherwise, the patient will die. Patient safety can be enhanced through continuous observation and monitoring in which nurses can monitor risks and disruption that could make patients injured or even dead (Mohr, Petti, & Mohr, 2003).

Currently some SOPs in Indonesia has been implementing a time limit monitoring in the hospital about 30 minutes. In contrast to other countries that use monitoring 15 minutes, 30 minutes, 1 hour, and 2 hours. Indonesia in terms of time locally or hospitals already use a short enough time to monitor a patient who has been in seclusion restraint and in hospital. Currently, several SOPs in Indonesia have been implementing a time limit monitoring in the hospital for about 30 minutes. In contrast, other countries perform the monitoring for every 15 minutes, 30 minutes, 1 hour, and 2 hours. In Indonesia, hospitals already use a short period of time to monitor patients in restraint and seclusion in hospital. However, monitoring patients using observation tool can also violate patient's privacy and this is the way to respect the dignity of patients as human beings. However, the results of a study showed that although the use of CCTV monitoring may violate patient's privacy, patient safety becomes more important the current use of CCTV (Olsen, 1998).

Patient safety can be improved through

staff training. Qualified staff, including nurses, can reduce the risk of accidents during the restraint and seclusion (Bowers & Crowder, 2012). The results of a study showed that trained nursing personnel can improve performance in emergency (Georgieva, Mulder, & Noorthoorn, 2013).

The safety of staff, in this case nurses, is also a concern of some countries to guarantee the safety of nurses in implementing restraint and seclusion. The results of a study showed that when implementing restraint and seclusion, nurses also received negative impact, both physical and emotional impact (Kontio et al., 2010). Therefore, the safety of the nurse as a person with the longest contact with patients becomes very important. The nursing staff at the hospital are the most at risk of aggressive and violent behavior from patients with mental disorders (Briner & Manser, 2013). Training staff or nurses in this research is included in foreign and Indonesian documents. In this case, the point of Indonesian nurses and staff training is already contained in the Law of Health No. 36 of 2009, but this point does not go directly to the needs for nurses training before they are assigned in a special room for restraint and seclusion.

The results of a study showed that the staff and nurse training lower the risk of workplace accidents (Emde & Merkle, 2002). The results of another study also indicate that the nursing staff training may reduce the number of restraint and seclusion at the hospital (Scanlan, 2010). In addition to training staff and nurses on how to implement restraint and seclusion, it is also necessary to make a commitment on leadership training in the implementation of policies and regulations. According to a study, nurse who has a leadership and is committed in carrying out an established policy would decrease the rate of restraint and seclusion in the hospital (Pollard, et al., 2007). It means that nurse's commitment is also very important in reducing restraint and seclusion in the hospital.

The implementation of safe and comfortable restraint, seclusion and confinement is important, but the opportunity for nurses to express their feelings should also be taken into consideration. The results of a study showed that the opportunity for nurses to express all of their feeling when implementing restraint and seclusion can reduce the number of restraint and seclusion (Scanlan, 2010). Giving the opportunity to express all the feelings felt by nurses can reduce physical and emotional stress and will provide comfort (Mérineau-Côté & Morin, 2013). This means that this point should also be included in the policy and legal aspects of restraint, seclusion and confinement in Indonesia. From the aforementioned discussion, it can be concluded that the implementation of restraint, safe and comfortable seclusion and confinement supports the training of nurse's feeling when they finish implementing restraint and seclusion. Therefore, the implementation of safe and convenient restraint, seclusion and confinement for nurses are important to consider in the making of legal aspects of policies concerning restraint and seclusion.

Currently, the Mental Health Law No. 14 of 2014 has been repealed and replaced with Health Law No. 17 of 2023. Health Law No. 17 of 2023 does not specifically mention restrain and segregation as well as about restrain, seclusion and pasung in patients with mental disorders. The hope of this study is that there will be derivatives of the Law on the regulation of restrain, seclusion and pasung in mental disorders.

This study has limitations. Such as limited access to comprehensive international documents, difficulties in analyzing documents in multiple languages, and the limited availability of legal and policy documents in Indonesia, which were not of equivalent levels. These challenges affected the scope and representation of the research analysis.

CONCLUSION

The similarities of legal aspects and policies concerning restraint and seclusion for patients with mental disorders in the world are the implementation of restraint, seclusion and confinement in the hospital as the last intervention and recommendation for using other interventions. In addition, another similarity is the protection of human rights in mental patients in restraint, seclusion and confinement. Obviously, confinement is an intervention that violate human rights and should no longer exist in Indonesia. The third similarity is protecting the safety of patients and nurses, for which each country has its own policy in managing the safety of patients and nurses.

There are differences in the legal aspects and policies concerning restraint, seclusion and confinement. The differences include appreciation of culture, measures to monitor patients using tools and duration for monitoring patients in Indonesia and foreign countries. The results of the analysis of legal aspects, regulations, and policies concerning restraint, seclusion and confinement in Indonesia is that there should be a policy concerning the prohibition of confinement. Furthermore, legal aspects and policies in foreign countries are suitable to be applied in Indonesia. The prohibition of confinement should be applied nationally in Indonesia, not only regionally, in order to cover patients with mental disorders in Indonesia.

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