

REVIEWING DRUG REHABILITATION POLICIES AND PRACTICES IN THE CONTEXT OF TRAFFICKING IN PERSONS SCHEMES IN INDONESIA



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Reviewing Drug Rehabilitation Policies and Practices in The Context of Trafficking in Persons Schemes in Indonesia

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TABLE OF CONTENTS

I. INTRODUCTION	1
A. BACKGROUND	1
B. RESEARCH PROBLEMS	4
C. RESEARCH OBJECTIVES	4
D. RESEARCH METHOD	5
II. DISCUSSION	9
A. GUARANTEES AND SITUATIONS OF ENJOYMENT OF HUMAN RIGHTS IN DRUG REHABILITATION POLICIES IN INDONESIA	9
B. THE RELATIONSHIP BETWEEN DRUG REHABILITATION POLICIES AND TRAFFICKING IN PERSONS IN INDONESIA	21
C. THE INDONESIAN LEGAL SYSTEM'S RESPONSE TO DRUG REHABILITATION PRACTICES WITH THE POTENTIAL TO CAUSE HUMAN TRAFFICKING	28
III. CONCLUSIONS AND RECOMMENDATIONS	35
REFERENCES	38



**TINDAK PIDANA
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I. INTRODUCTION

A. BACKGROUND

The persistent overcrowding of detention centers (*Rumah Tahanan Negara* or *Rutan*) and correctional institutions (*Lembaga Pemasyarakatan* or *Lapas*) in Indonesia remains an unresolved structural issue. According to data from the Directorate General of Corrections, as recorded in the Correctional Database System, the total population of incarcerated individuals has reached 279,262. At the same time, the system's official capacity stands at just 147,476. This nearly 100 percent overcapacity is overwhelmingly driven by drug-related offenses, which account for the single largest category of incarcerated individuals, totaling 88,808 people.¹ This condition reflects the current drug policy in Indonesia, which continues to emphasize a punitive approach through imprisonment.

The punitive approach places the criminal justice system at the forefront of efforts to reduce the rate of drug-related offenses in Indonesia. This orientation is closely linked to the framework of Law Number 35 of 2009 on Narcotics (the Narcotics Law), which is heavily characterized by criminal provisions. In reality, the consensus of the international community, as embodied in the three core drug control conventions², does not, in principle, mandate that member states must immediately criminalize the use or possession of drugs for personal consumption. However, in practice, the global discourse surrounding drug policy implementation has often evolved without adequate consideration of international human rights conventions. Law enforcement and drug control policies remain key areas where human rights violations can and do occur, as the metrics used to gauge the success of drug control efforts are frequently the very same indicators that reveal potential human rights violations.³

1 Public Correctional Database System (SDP), Directorate of Corrections. Retrieved at <https://sdppublik.ditjenpas.go.id/> on June 26, 2025.

2 The three main conventions related to drugs are contained in: (1) Single Convention on Narcotics Drugs (1961); (2) Convention on Psychotropic Substances (1971); and (3) United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988). Indonesia has ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) through Law Number 7 of 1997.

3 Ricky Gunawan et al., *Mendorong Kebijakan Non-Pemidanaan bagi Pengguna Narkotika: Perbaikan Tata Kelola Narkotika Indonesia*, (Jakarta: Institute for Criminal Justice Reform, 2021), p. 64.

Trafficking in Persons and Drugs Rehabilitation

The practice of trafficking in persons has emerged as a concerning issue in the implementation of drug rehabilitation efforts, particularly where regulations are fragmented and oversight is minimal. Human trafficking constitutes a grave violation of human dignity and rights, universally condemned by the international community. In 2000, the United Nations General Assembly adopted a resolution establishing the Convention against Transnational Organized Crime.⁴ Alongside it, a supplementary protocol was introduced to prevent, suppress, and punish trafficking in persons, especially women and children.⁵ This protocol became the first legally binding international instrument to provide a universally accepted definition of trafficking in persons.

The phenomenon of trafficking in persons under the guise of drug rehabilitation emerged as a grave human rights concern in Indonesia, with a high-profile case occurring in Langkat Regency in 2022. This incident has been marked as a dark chapter in the nation's human rights record. The case began with the arrest of the former Regent of Langkat, Terbit Rencana Perangin Angin, by the Corruption Eradication Commission (*Komisi Pemberantasan Korupsi* or *KPK*) on allegations of bribery related to procurement projects in the regency. Following his arrest, law enforcement discovered a human cage within his private residence.⁶ Based on this discovery, Terbit was also prosecuted for alleged acts of trafficking in persons before the Stabat District Court. While initially acquitted at the first instance⁷, the Supreme Court ultimately found him guilty of committing a criminal offense as stipulated in Article 2, paragraph 2, in conjunction with Article 11 of the Law on the Eradication of the Crime of Trafficking in Persons (*PTPP* Law). He was sentenced to four years' imprisonment and fined IDR 200,000,000 (two hundred million rupiah).⁸

4 United Nations Convention Against Transnational Organized Crime, adopted by General Assembly Resolution 55/25 of 15 November 2000.

5 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

6 Haris Fadhil, Eks Bupati Langkat Dibui 4 Tahun, Ganti Rugi Kasus Kerangkeng Manusia Tak Ada, 2024. Accessed on <https://news.detik.com/berita/d-7657057/eks-bupati-langkat-dibui-4-tahun-ganti-rugi-kasus-kerangkeng-manusia-tak-ada>

7 Stabat District Court Decision Number: 555/PID.SUS/2023/PN.STB.

8 Supreme Court Decision Number: 7283 K/PID.SUS/2024.

General Evaluation of Drug Rehabilitation in Indonesia

The current regulatory regime does not consistently support or implement recovery-based or rehabilitation-centered interventions for individuals who use drugs. Article 54 of the Narcotics Law stipulates that people who use drugs and victims of drug abuse are required to undergo medical and social rehabilitation. However, this provision carries at least two conflicting implications. *First*, health-based interventions should be understood as a right tailored to each individual's needs. Therefore, the notion of mandatory rehabilitation stands in tension with the concept of the right to health. *Second*, even where rehabilitation is mandated, in practice, Indonesia's detention centers and correctional institutions remain heavily populated by individuals who use drugs. In other words, the rehabilitation provisions under the Narcotics Law continue to function as part of a carceral approach within the broader criminal justice system.

One of the challenges that arises in implementing rehabilitation efforts in Indonesia is the fragmented regulatory framework. Authority over rehabilitation is distributed across multiple ministries and agencies, lacking a unified or comprehensive legal basis. This lack of integration results in weak coordination and inadequate mechanisms for monitoring and evaluating rehabilitation programs. Moreover, the regulatory gaps surrounding drug rehabilitation create significant opportunities for practices that conflict with fundamental human rights principles.

The events described above highlight systemic issues in the implementation of drug rehabilitation in Indonesia, particularly the weakness of legal norms governing the evaluation of rehabilitation institutions and organizations. This regulatory gap presents a significant opportunity for exploitation, particularly by those with knowledge of legal loopholes. The incident in Langkat Regency is believed to represent only the visible tip of a much larger problem; an "iceberg" phenomenon in which similar abuses likely occur elsewhere but remain hidden from public scrutiny and beyond the reach of the justice system. Law Number 8 of 1981 on Criminal Procedure (*KUHAP*), which remains in force at the time of this study, has failed to adequately address such phenomena, primarily due to the punitive orientation of existing drug policies. The social stigma attached to

individuals who use drugs places them in an acutely vulnerable position, often rendering them susceptible to exploitation, including as commodities within trafficking in persons schemes. The lack of robust oversight, the legal system's failure to respond effectively to cases like Langkat, and the stigmatizing, punitive character of the Narcotics Law all serves as enabling factors for the emergence of new patterns of trafficking in persons. In light of these concerns, this research seeks to examine the nexus between drug policy and trafficking in persons in Indonesia, under the title: **Reviewing Drug Rehabilitation Policies and Practices in The Context of Trafficking in Persons Schemes in Indonesia**

B. RESEARCH PROBLEMS

Building on the background outlined above, this research seeks to address the following questions:

1. What are the guarantees and actual conditions regarding the enjoyment of human rights within Indonesia's drug rehabilitation policy framework?
2. How are drug rehabilitation policies in Indonesia linked to the crime of trafficking in persons?
3. In what ways does the Indonesian legal system respond to drug rehabilitation practices that are connected to trafficking in persons?

C. RESEARCH OBJECTIVES

This research has three primary objectives:

1. To identify and analyze the legal guarantees and actual conditions surrounding the enjoyment of human rights within Indonesia's drug rehabilitation policies.
2. To examine the relationship between drug rehabilitation policies and the occurrence of trafficking in persons in Indonesia.
3. To assess how the Indonesian legal system responds to drug rehabilitation practices that intersect with or contribute to trafficking in persons.

D. RESEARCH METHOD

This research employs a qualitative approach using a normative-empirical method, which involves analyzing policy at the regulatory level while also examining events as they unfold within society. The qualitative approach was selected for its capacity to explore complex phenomena in depth, particularly with social dynamics, the interpretation of meaning, and the subjective experiences of those affected by drug rehabilitation policies and the potential occurrence of trafficking in persons. This approach enables the research team to capture contextual factors, values, and perceptions that cannot be quantified, especially when assessing how various stakeholders respond to applied policy frameworks.

Normatively, this research examines the legal norms contained in laws and regulations, while also identifying the responses and interactions within society that arise from the implementation of rehabilitation programs that may facilitate or intersect with human trafficking schemes. The research process commenced with a comprehensive review of literature and relevant legal instruments in two key areas: drug policy and human trafficking. To enrich the analysis and support the research questions, the research team conducted interviews with a number of purposively selected informants, chosen based on their expertise, professional experience, and relevance to the research focus. These informants came from a range of backgrounds, including:

1. Anis Hidayah, S.H., M.H., Chairperson of the National Human Rights Commission (*Komisi Nasional Hak Asasi Manusia* or *KOMNAS HAM*), was interviewed in her capacity as an expert. She has an extensive track record of advocating against trafficking in persons, including during her tenure as Executive Director of Migrant Care. She was also one of the parties who reported the suspected trafficking case involving the human cage at the residence of the Regent of Langkat to *KOMNAS HAM* at the time.
2. Suhartini Saragi, S.K.M., M.Si., Associate Expert Health Administrator (Coordinator) at the Directorate of Strengthening Community Component Rehabilitation (*Direktorat Penguatan Lembaga Rehabilitasi Komponen Masyarakat* or *PLRKM*), National Narcotics Agency of the Republic of

Indonesia (*Badan Narkotika Nasional Republik Indonesia* or *BNN RI*). She provided insights into drug rehabilitation policies and practices from the perspective of the implementing government agency.

3. Irwan Setiawan, Commissioner at the National Commission on Violence Against Women (*Komisi Nasional Anti Kekerasan terhadap Perempuan* or *Komnas Perempuan*), was interviewed in his capacity as a representative working on issues related to women, gender-based violence, and their intersection with trafficking in persons.
4. Mochamad Tommy Permana, an Expert at the Witness and Victim Protection Agency (*Lembaga Perlindungan Saksi dan Korban* or *LPSK*), provided insights into victim protection in cases of trafficking in persons, including the mechanisms for providing support and assistance to victims.
5. Said Prawoto, S.H., Officer at Committee I, Unit III, Sub-Directorate III of the Directorate for the Protection of Women and Children (*Perlindungan Perempuan dan Anak* or *PPA*) and Trafficking in Persons (*Perdagangan Orang* or *PPO*), Criminal Investigation Department (*Bareskrim*) of the Indonesian National Police. He provided an overview of the law enforcement process and discussed the challenges encountered in detecting and handling cases of trafficking in persons.
6. Indra (*pseudonym, real identity withheld*), a survivor of drug rehabilitation, participated voluntarily and was referred through the client network of the Community Legal Aid Institute (*Lembaga Bantuan Hukum Masyarakat* or *LBH Masyarakat*). Indra shared personal experiences during the rehabilitation process, including exposure to potential exploitation and human rights violations.

The recruitment process for all informants was conducted through formal interview requests addressed to each interviewee. For representatives from government institutions, the requests were submitted to the heads of the respective agencies. Upon receipt, the letters were internally referred to the appropriate departments or units for follow-up and to arrange a suitable time for the interview sessions.

The data collected from the interviews will be presented descriptively and analyzed using legal and human rights frameworks drawn from both international and national legal instruments.

The Research Team acknowledges several limitations in the preparation of this research. One substantive challenge lies in the limited availability of prior research that comprehensively addresses the three core areas examined in this research—drug rehabilitation policies, trafficking in persons, and the criminal justice system. Information gathered through interviews was instrumental in helping the team identify points of intersection between drug policy and human trafficking. However, the team also encountered difficulties in accessing or securing interviews with certain key informants, particularly from ministries that play a critical role in shaping and implementing drug rehabilitation policy. In light of these limitations, this research aims to offer a foundational analysis of how weaknesses in Indonesia’s criminal justice system may enable drug rehabilitation policies to facilitate or obscure practices of trafficking in persons.



II. DISCUSSION

A. GUARANTEES AND SITUATIONS OF ENJOYMENT OF HUMAN RIGHTS IN DRUG REHABILITATION POLICIES IN INDONESIA

Within various national legal frameworks, rehabilitation for individuals who use drugs in Indonesia is recognized as part of the state's obligation to uphold human rights. Government institutions, including the Ministry of Health, the Ministry of Social Affairs, and BNN RI, are responsible for providing comprehensive rehabilitation services. These services include medical recovery, restoration of social functioning, and protection from disproportionate criminalization.

Normatively, Article 54 of the Narcotics Law stipulates that people who use drugs or abusers of drugs are required to undergo medical and social rehabilitation. This mandate is further reinforced by the Ministry of Health through Regulation No. 4 of 2020 on Mandatory Reporting Institutions (*Institusi Penerima Wajib Laporkan* or *IPWL*), and Regulation No. 18 of 2014 on Medical Rehabilitation Guidelines. These regulations affirm the guarantee of the right to health services that are safe, of high quality, and free from discrimination.

On the other hand, the Ministry of Social Affairs is responsible for administering social rehabilitation. This mandate is grounded in Law No. 11 of 2009 concerning Social Welfare, as well as several ministerial regulations (*Peraturan Menteri Sosial* or *Permensos*), including No. 3 of 2011 and No. 9 of 2018, which emphasize social reintegration and the restoration of a dignified life. BNN RI, as a central agency in addressing drug-related issues, plays a role in conducting integrated assessments and implementing rehabilitation programs based on restorative legal principles, as outlined in BNN Regulation No. 2 of 2020 and No. 11 of 2014.

Although rehabilitation for individuals who use drugs is normatively framed as a form of protection and recovery, its implementation in Indonesia reveals a significant contradiction. The state, through Article 54 of the Narcotics Law, mandates that people who use drugs and are drug abusers undergo rehabilitation. However, this compulsory approach raises two important concerns. *First*, mandatory rehabilitation is inconsistent with human rights principles, as genuine rehabilitation should be based on voluntariness and informed consent. *Second*, in practice, such compulsory rehabilitation is often conducted in ways that frequently disregard human rights standards: without the individual's consent, without adequate or meaningful services, and in some cases, even resulting in forms of exploitation.

Based on a human rights paradigm, the state is obligated to guarantee the rights to health, safety, and humane treatment for all citizens, including those who are vulnerable and marginalized, such as individuals who use drugs. However, in the implementation of drug policy in Indonesia, these principles are often undermined by a legal framework that positions rehabilitation within the penal system rather than as part of the right to health. Although various policies and legal instruments have been established, significant gaps remain in ensuring the full enjoyment of human rights in the context of drug rehabilitation. This issue is particularly critical not only due to the large number of people who used drugs in correctional facilities, but also because the existing regulatory structure and rehabilitation practices fail to ensure a system that is fair, transparent, and accountable.¹

The fulfillment of the right to health is a critical component of drug policy reform in many countries, and this should also be the case for Indonesia. Although the 1961 Single Convention on Narcotic Drugs² and the 1971 Convention on Psychotropic Substances³, reflect a predominantly punitive approach, both still acknowledge the right of individuals to access alternatives to criminal

1 Press Release: Kerangkeng Bupati Langkat: Bukti Suburnya Praktik Rehabilitasi Liar, LBH Masyarakat and PSHK, 2022. Accessible on <https://lbhmasyarakat.org/kerangkeng-bupati-langkat-bukti-suburnya-praktik-rehabilitasi-liar/>.

2 Single Convention on Narcotic Drugs 1961, Article 38 para. 1, the Parties shall give special attention to and take all practicable measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved and shall coordinate their efforts to these ends.

3 Convention on Psychotropic Substance 1971, Article 20, The Parties shall take all practicable measures for the prevention of abuse of psychotropic substances and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved, and shall coordinate their efforts to these ends.

sanctions, including health-based interventions for people who use drugs. In principle, every individual is entitled to the highest attainable standard of physical and mental health.⁴ However, in practice, the guarantee of access to health services is hindered by numerous challenges at both the regulatory and implementation levels. The right to health is not merely the right to be healthy; it encompasses a broader set of entitlements and freedoms. These include the right to bodily autonomy, access to healthcare services such as physical and mental health evaluations, and sexual and reproductive health services. It also includes the right to be free from non-consensual medical treatment, harassment, coercion, and medical experimentation.⁵

Indonesia's Narcotics Law recognizes 2 (two) primary forms of rehabilitation. *First*, medical rehabilitation, which refers to a series of integrated treatment activities aimed at helping individuals overcome dependence on drugs. *Second*, social rehabilitation, which is defined as a process of integrated recovery involving physical, mental, and social support, enables former people who use drugs to reintegrate into society and resume their social functions. In terms of access, the Narcotics Law provides for two primary pathways to rehabilitation: rehabilitation initiated voluntarily by people who use drugs, and rehabilitation mandated through the criminal justice system.

Punitive Drug Rehabilitation in the Criminal Justice System

As noted earlier, Article 54 of the Narcotics Law mandates that individuals who are drug dependents or victims of drug abuse must undergo medical and social rehabilitation. However, this mandatory rehabilitation provision is not aligned with the ongoing criminal penalties that continue to target people who use drugs. This misalignment stems from the Indonesian legal framework, which positions rehabilitation at the intersection of health-based and criminal law approaches. As a result, people who use drugs still face the threat of imprisonment under Articles 111 and 112 of the Narcotics Law. Notably, the Supreme Court of Indonesia, as the highest authority within the judiciary, has

4 Asmin Fransiska, et al., *Anomali Kebijakan Narkotika*, (Jakarta: Universitas Katolik Indonesia Atma Jaya, 2019), p.11.

5 General Comment 14 on the Right to the Highest Attainable Standards of Health, in the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which has been ratified through Law Number 11 of 2005.

raised concerns about the application of these provisions. The elements of “possession,” “storage,” or “control” within these articles have been criticized as vague and overly broad, earning the labels of “catch-all trash bin” or “rubber” articles due to their potential for arbitrary interpretation and use.⁶

On the other hand, several legal instruments aim to increase the likelihood of access to rehabilitation for people who use drugs when they come into contact with the criminal justice system. One such provision is the regulation concerning the integrated assessment mechanism, as outlined in Regulation of the Head of the National Narcotics Agency Number 11 of 2014 on Procedures for Handling Suspects and/or Defendants Who Are Drug Dependent and Victims of Drugs Abuse into Rehabilitation Institutions (*a literal translation of Peraturan Kepala BNN No.11/2014*).

Integrated assessment is a mechanism designed to determine 2 (two) key aspects. *First*, it involves a medical and psychosocial assessment, along with an analysis and recommendation for therapy and a rehabilitation plan for an individual who has been arrested and/or detained. *Second*, it includes a legal analysis of the individual’s case concerning alleged involvement in illicit drug trafficking or drug use.

According to several monitoring reports from the Deputy for Rehabilitation at BNN, the placement of individuals into rehabilitation institutions often bypasses the integrated assessment process as mandated by BNN Regulation No. 11 of 2014.⁷ This assessment mechanism is intended to serve as a core requirement for determining the appropriate type of rehabilitation, based on the medical, psychosocial, and legal conditions of the person who uses drugs. However, in practice, complete discretion rests with investigators to decide whether to refer a case to the BNN Integrated Assessment Team. Normatively, the integrated assessment should be initiated within 3 × 24 hours after arrest,

6 Supreme Court Decision Number: 1071 K.PID. SUS/2012 dated June 26, 2012, page 10, which reads in full: “That the provisions of Article 112 of Law No. 35 of 2009 are provisions for catch-all trash bin or rubber articles. The actions of people who use or people with drug dependence who possess or possess narcotics for the purpose of consumption or personal use will not be separated from the snares of Article 112, even though this kind of thinking is wrong in applying the law because it does not consider the circumstances or fundamental things of the defendant controlling or possessing the goods in accordance with the intention or intention of the defendant.”

7 Interview with Suhartini Saragi, SKM., M.Si., Associate Expert Health Administrator (Coordinator), Directorate of Strengthening Community Component Rehabilitation (PLRKM), on June 5, 2025 at BNN RI.

with results provided within 6 × 24 hours. Yet, interviews with BNN officials revealed that assessments are not always conducted within the prescribed timeframe. In many cases, rehabilitation institutions accept clients without valid assessment documentation.⁸ Investigators often collaborate informally with rehabilitation providers and proceed to “hand over” individuals without conducting the required assessment and without obtaining the individual’s consent.⁹ Numerous cases indicate that people who use drugs are transferred directly to specific rehabilitation centers without being informed of their legal rights, without access to legal counsel, and without undergoing proper administrative procedures.¹⁰ These practices reveal a significant oversight gap and pose a serious risk of legal malpractice.

Even more concerning is the condition individuals face upon arrival at rehabilitation institutions. In many cases, there are no adequate medical or social services provided. Most “patients” are subjected to routine activities that lack any therapeutic foundation. They do not undergo medical detoxification, receive psychosocial counseling, or benefit from a documented recovery plan.¹¹ Furthermore, the rehabilitation system is frequently utilized as an “alternative route” within criminal proceedings, rather than as a genuine mechanism for health restoration.¹² In this context, rehabilitation loses its substance as a fulfillment of the right to health and instead operates merely as an administrative extension of the penal system.

The information provided by Suhartini Saragi is consistent with conditions observed in the field. This was corroborated by Indra, a person who experienced forced rehabilitation within the framework of the criminal justice system.¹³ Indra was arrested by the police in 2024 on suspicion of using methamphetamine-type drugs, along with two others, his friend and his nephew. At the time of arrest, the three were suspected of intending to use drugs at Indra’s home, based on the discovery of a bong, which was alleged to have been used for

8 Ibid.,

9 Ibid.,

10 Ibid.,

11 Ibid.,

12 Ibid.,

13 Interview with Indra (pseudonym, real identity withheld), on June 30, 2025 in Jakarta.

consuming methamphetamine. Following the arrest, Indra and the two others were held in police custody for 7 (seven) days. On the seventh day, they were transferred to a rehabilitation institution without having undergone an integrated assessment, as required by regulation. Moreover, prior to the transfer, police officers did not seek their consent or inquire about their willingness to participate in a rehabilitation program.

Upon arriving at the rehabilitation center, Indra did not undergo any examination or assessment to determine his level of drug dependence. Instead, the rehabilitation staff requested payment from Indra and the two others, each being asked to pay IDR 4,000,000 to be released and avoid undergoing the rehabilitation process. In his statement, Indra explained that he was never informed about the origin or official basis for the fees being charged by the institution. Unable to pay the requested amount, Indra was left with no choice but to remain at the rehabilitation facility, with no information or clarity regarding the duration of his stay.

Indra described his daily routine at the rehabilitation center as a repetitive cycle with very limited activities. Each day, he and other residents were required to gather 3 (three) times: morning, afternoon, and evening, for sessions focused on memorizing information about the dangers of drug use. Regarding nutritions, Indra stated that meals were only provided during the afternoon and evening, and he characterized the quality of the food as inhumane. He reported being served little more than rice and noodles on a near-daily basis, which he considered insufficient to meet basic nutritional needs. During his stay, Indra never received any visits from family members or relatives. In addition to the distance, he explained that the rehabilitation center required families to pay a fee of IDR 1,000,000 in order to visit them.

Based on his statement, almost all people in the rehabilitation institution were transferred to the case after the arrest carried out by the police on suspicion of possession of narcotics. There is 1 (one) person who is not involved in the drugs case, but the theft of a motor vehicle or the seizure, who is also in the rehabilitation institution. Indra lived a different fate from most people who undergo rehabilitation in that place. Most of the rehabilitation patients in that

place go home because they have been “redeemed” by their families. By paying IDR 4,000,000, the family can take the person to their home without being obliged to accept an outpatient. Indra, who had no money, had to languish in that place for 40 days, until finally Indra decided to run away from that place. He made the big decision because Indra felt that the place did not give him any changes. Instead, Indra felt confined, did not receive proper food intake, and was on the verge of uncertainty about when he would finish and leave the place. Moreover, Indra admitted that there was at least 1 (one) person that he knew had been in that place for 9 months.¹⁴

Indra is not the only individual to experience such injustice and arbitrary treatment. Similar accounts of mistreatment have also been reported by other clients of LBHM.

From Shackles to Freedom

The year 2022 marked an unforgettable period in the life of Romi (22 years old, pseudonym). A resident of the Purwakarta area, Romi was arrested by the Soekarno-Hatta Airport Police (Bandara Soekarno Hatta or BSH) on suspicion of involvement in a drug-related offense. After spending six days in detention at the BSH Police Detention Center, he was transferred to a rehabilitation institution in South Jakarta. This transfer took place without any preliminary examination to assess his level of drug dependence, and without legal documentation authorizing the arrest or detention. Romi was never allowed to make a choice or provide informed consent regarding his participation in the rehabilitation program. In other words, the transfer was carried out solely at the investigator’s discretion.

¹⁴ *Ibid.*,

At first glance, the transfer from the criminal justice process to a rehabilitation facility may appear to be an “advantage”. Rehabilitation can keep Romi out of prison and prevent him from receiving a criminal record. However, the underlying problems remain unresolved. Upon arrival at the rehabilitation institution, Romi was asked to pay rehabilitation fees totaling IDR 40,000,000. During his stay, he was unable to receive visits from family members, relatives, or legal representatives from LBHM, who had been appointed as his legal advisory team.

In an effort to examine the operations of the rehabilitation institution in question, LBHM submitted formal requests and complaints to several government agencies, including the Ministry of Social Affairs, the Ministry of Health, and the National Narcotics Agency. These submissions aimed to obtain information about service standards and rehabilitation costs at the facility. However, no responses have been received from any of the institutions contacted. Meanwhile, the rehabilitation center that was holding Romi appeared to react negatively to the news. A representative of the institution expressed dissatisfaction over the letter sent by LBHM to the authorities regarding Romi’s situation. Following a series of discussions, the institution ultimately decided to release Romi without requiring any payment. After his release, Romi shared that during his time at the facility, he did not participate in any structured activities or programs aimed at addressing drug dependency. He was simply placed in a room with several other individuals, also undergoing rehabilitation, but was not informed of their backgrounds or conditions.

Romi was arrested in Purwakarta and detained at the Soekarno-Hatta Airport Police station, before being subjected to a period of “seclusion” under the guise of forced drug rehabilitation in the South Jakarta area. Romi struggled to break free from the restraints of a system that systematically denied him his right to autonomy and personal freedom.

Based on documentation from other cases, LBHM also identified a concerning phenomenon in which rehabilitation efforts are integrated with religious education-based institutions. These facilities not only claim to provide drug rehabilitation but also accommodate individuals with specific disabilities under the guise of therapy and treatment.

Pesantren-based Rehabilitation Practices in Banten

In December 2023, a teenager named Bima (pseudonym), who has long lived with schizophrenia, was taken by his parents to a pesantren-based rehabilitation institution in Banten (pesantren are traditional Islamic boarding schools in Indonesia). Although Bima had never used drugs, his parents, due to limited understanding of mental health, entrusted his care to a drug rehabilitation center that claimed it could “cure” individuals with mental disorders or dependency through a combination of spiritual methods and total isolation.

For this rehabilitation process, the family spent more than fifty million rupiah, covering registration fees, monthly contributions, meals, and other associated costs. However, their hope that their child would experience recovery instead turned into a tragedy.

For several months after placing their child in the rehabilitation center, Bima’s family received no updates whatsoever about his condition. The institution’s management completely restricted communication. In May 2024, Bima’s parents returned to the rehabilitation center and insisted on seeing their son. Their request was repeatedly denied until the family ultimately demanded that Bima be released and returned home.

When Bima was finally released from the institution, his condition had deteriorated severely. His body was emaciated, covered in wounds, and showed clear signs of physical abuse. His hands and feet had reportedly

been tied several times to the wooden couch where he slept. According to his family, during his time at the facility, Bima was confined to a dark and damp basement. All of his daily activities, including eating, sleeping, and defecating, took place in that space without access to sunlight or fresh air.

The institution also lacked professional health personnel, and as a result, no medical or psychosocial recovery programs were ever provided. The only activity referred to as “therapy” was a Friday night bath, a ritual without any scientific foundation that was symbolically used as a form of purification.

The events described above reflect a broader pattern that occurs in many places, yet they have not been prioritized within the government’s reform agenda. Serious human rights violations continue to occur within the drug rehabilitation system, including acts of violence, degrading treatment, and economic exploitation. In many cases, access to the outside world is severely limited. Families are not allowed to visit freely, communication is restricted, and legal representatives are often denied entry. Individuals in these institutions frequently lose autonomy over their bodies, time, and other fundamental rights.

In addition to punitive policies, the criminal justice system, which grants significant authority to the police, also requires thorough evaluation. The implementation of the integrated assessment mechanism needs to be reviewed to determine whether it remains necessary. If it is no longer relevant, it may be better to abolish it entirely.¹⁵ However, if it is still regarded as a mechanism for fulfilling the right to health, then the provisions and standards governing drug rehabilitation must be evaluated and reformed.¹⁶ This would ensure that rehabilitation is implemented through a system that is accountable and does not violate human rights.¹⁷

¹⁵ Opcit., Interview with Suhartini Saragi, SKM., M.Si.,

¹⁶ Ibid.,

¹⁷ Ibid.,

Regulations on Separate Standards and Monitoring Mechanisms

In addition to regulations on rehabilitation that are biased toward the threat of imprisonment, the Narcotics Law does not explicitly regulate the governance of drug rehabilitation implementation. The legal basis for granting permits to operate rehabilitation services is dispersed across several regulations issued by different ministries. The Ministry of Health and the Ministry of Social Affairs are the two primary institutions with strategic authority over the governance of drugs rehabilitation, including responsibilities related to the issuance and revocation of permits for rehabilitation institutions.

The Ministry of Health is responsible for licensing medical rehabilitation facilities,¹⁸ while the Ministry of Social Affairs is authorized to regulate the implementation of social rehabilitation programs.¹⁹ In addition to these two ministries, other institutions also play a role. The Ministry of Law and Human Rights oversees the legal status of rehabilitation institutions as registered legal entities.²⁰ Although BNN does not have the authority to issue permits, it provides technical recommendations related to rehabilitation.²¹ Outside of government institutions, the Narcotics Law also allows for community involvement in implementing both medical and social rehabilitation.

Unfortunately, this regulatory structure reflects overlapping authority among institutions. Each institution operates under its legal framework, which is separate and not harmonized within a unified national system. As a result,

18 Government Regulation Number 25 of 2011 on the Implementation of Mandatory Reporting of Drug Dependents; Regulation of the Minister of Health No. 2415 of 2011 on Medical Rehabilitation of Drug Dependents, Abusers and Victims of Abuse; Regulation of the Minister of Health Number 17 of 2023 on Amendments to Regulation of the Minister of Health Number 4 of 2020 on the Implementation of Institutions That Are Obligated to Report. (Literal translations)

19 Government Regulation Number 25 of 2011 on the Implementation of Mandatory Reporting of Drug Dependents; Regulation of the Minister of Social Affairs Number 7 of 2021 on Social Rehabilitation Assistance (Permensos 7/2021), Regulation of the Minister of Social Affairs Number 7 of 2022 on Amendments to Permensos 7/2021, and Regulation of the Minister of Social Affairs Number 2 of 2024 on the Second Amendment to the Ministry of Social Affairs 7/2021. (Literal translations)

20 Law No. 16 of 2001 jo. Law No. 28 of 2004 on Foundations Permenkumham No. 3 of 2016 on Procedures for Submitting Applications for the Ratification of Legal Entities of the Foundation. (Literal translations)

21 Regulation of the National Narcotics Agency of the Republic of Indonesia Number 11 of 2014 on Procedures for Handling Suspects and/or Defendants of Drug Dependents and Victims of Drug Abuse into Rehabilitation Institutions; Regulation of the National Narcotics Agency of the Republic of Indonesia Number 6 of 2020 on the Organization and Work Procedures of the Provincial National Narcotics Agency and the Regency/City National Narcotics Agency; Regulation of the National Narcotics Agency of the Republic of Indonesia Number 6 of 2022 on the Implementation of Sustainable Rehabilitation. (Literal translations)

there are no integrated national standards governing the implementation and supervision of drug rehabilitation. This lack of coordination hinders effective monitoring and evaluation and creates gaps that contribute to legal uncertainty in the implementation of rehabilitation services on the ground. These conditions present serious challenges to ensuring the protection of human rights within Indonesia's drugs rehabilitation system. Implementation is fragmented across multiple agencies, each applying different standards, with no single, binding standard applicable to all rehabilitation service providers. Consequently, a coherent and unified supervisory system remains absent.

Indonesia has, in fact, established SNI 8807:2022²² as the national standard for drug rehabilitation services. This standard emphasizes a rights-based approach to service delivery, including comprehensive assessments, the prioritization of informed consent, referral systems, and proper supervision and documentation. However, implementation of the SNI remains voluntary and is not a mandatory requirement for the operation of rehabilitation service providers, particularly those that are community-based or privately run.²³ As a result, monitoring and evaluating these institutions remain extremely challenging.

BNN has stated that it does not have the authority to issue or revoke operational permits for rehabilitation service institutions.²⁴ However, BNN maintains a Cooperation Agreement (*Perjanjian Kerja Sama* or *PKS*) mechanism with several rehabilitation providers, which can be renewed annually. In cases where a partner institution violates regulations or standards, BNN can submit a recommendation to the relevant technical ministries, namely, the Ministry of Health and the Ministry of Social Affairs, requesting the revocation of the institution's operational license.²⁵ Despite this, such recommendations are not legally binding and do not carry the authority to compel action.²⁶

The issues described above indicate that the guarantee and actual enjoyment of human rights within Indonesia's drug rehabilitation policy framework remain

22 It is a revision of SNI 8807:2019. It was stipulated through the Decree of the Head of the National Standardization Agency Number 655/KEP/BSN/12/2022.

23 Opcit., Interview with Suhartini Saragi, SKM., M.Si.

24 Ibid.,

25 Ibid.,

26 Ibid.,

weak. Numerous problems persist, ultimately resulting in the neglect of the rights of people who use drugs. Without comprehensive reform in policy, oversight, and approach, rehabilitation will continue to exist in a gray area between the fulfillment of rights and the occurrence of rights violations.

The subsequent chapters will examine how gaps in these systems can give rise to exploitative practices, including those that result in trafficking in persons.

B. THE RELATIONSHIP BETWEEN DRUG REHABILITATION POLICIES AND TRAFFICKING IN PERSONS IN INDONESIA

Provisions related to drug rehabilitation can be found in the Narcotics Law, specifically in Articles 54 and 103. These two articles carry different characteristics and objectives. Article 54 stipulates that individuals who use drugs are required to undergo medical and social rehabilitation. The use of the term “mandatory” in this article implies that rehabilitation must be carried out regardless of the individual’s consent. In contrast, Article 103 addresses situations where a person with drug dependence is involved in a legal process and provides the possibility for a rehabilitation order as part of a judicial decision. The key difference between the two articles lies in the timing of rehabilitation, whether it occurs outside the legal process or during the judicial process. Despite this distinction, both articles share a common shortcoming: they are grounded in a binary framework that fails to humanize people who use drugs. The options presented are not based on *voluntary* participation, but rather on *mandatory* participation.

From a legal standpoint, Article 103 of the Narcotics Law remains the most favorable option among available sentencing types, as it allows for rehabilitation measures that can keep people who use drugs out of prison, even though they may still carry a criminal record. Unfortunately, data shows that only a small proportion of individuals facing drug-related charges actually receive rehabilitation-based sentences. The vast majority continue to be sentenced to lengthy prison terms.

The difficulty individuals face in receiving rehabilitation sentences is often due to the application of other provisions within the Narcotics Law that prescribe prison terms. Moreover, there is a lack of a progressive perspective on drug policy among law enforcement authorities. Narratives surrounding people who use drugs remain heavily stigmatized. They are often framed as individuals suffering from a sickness, distant from religion, lacking moral discipline, or viewed as having no future and being social outcasts. These narratives contribute to the likelihood that they will be sentenced to prison.

Various law enforcement agencies have taken up efforts to untangle the complex issues surrounding rehabilitation. Judges now use the amount of evidence as a reference for determining whether a rehabilitation sentence can be imposed. Prosecutors and police have followed suit, appearing eager not to fall behind in adapting their practices. From a legal perspective, rehabilitation is classified as a form of judicial verdict, which means that an individual must first undergo a trial to determine whether such a verdict is appropriate. Over time, law enforcement agencies have introduced new discretionary measures that enable rehabilitation to occur even before a formal court verdict is issued. This approach aims to facilitate early intervention through rehabilitation, without requiring a judge to pronounce and deliver a rehabilitation sentence.

In 2018, the police, through the Head of the Criminal Investigation Department, issued a circular letter containing Rehabilitation Guidelines for Drug Dependents and Victims of Drugs Abuse, applicable at the investigation level. This document is commonly referred to as the Bareskrim Circular Letter of the National Police Number: SE/01/II/2018/BARESKRIM. According to the circular, an individual who is proven to have used drugs may be placed directly into a rehabilitation facility, even in cases where no physical evidence of drugs is found. On the one hand, this provision raises concerns, as it allows for mandatory rehabilitation without considering the individual's willingness or need for treatment. Despite this, the regulation is frequently applied by investigators and auxiliary investigators as a basis for placing individuals into rehabilitation institutions.

Since the enactment of the circular letter, many non-governmental organizations operating drug rehabilitation programs have established collaborations with the

police. The aim is to ensure that when a person is found to have a positive drug test, they can be referred immediately to a rehabilitation service. However, this raises a critical question: where will these individuals actually be placed for rehabilitation?

BNN, the Ministry of Health, and the Ministry of Social Affairs each have their own regulations governing rehabilitation services, which differ from those applied by non-governmental organizations. Government institutions operate using the state budget, which is bound by accountability principles and subject to oversight. In contrast, non-governmental organizations are not held to the same financial accountability standards. This disparity distorts rehabilitation policy, particularly when the financing of services is not standardized and lacks requirements for transparency and proof of accountability.

Our findings show that people who use drugs are often not given any options regarding their condition, particularly concerning their financial situation. From the outset, the police frequently place individuals into rehabilitation services operated by non-governmental organizations, especially those with cooperation agreements (*SPK*). In terms of cost, the police typically disclaim responsibility, leaving the financial arrangements entirely to the individual and the service provider. In this context, people who use drugs are treated as “cash cows”; sources of profit within a system where law enforcement leverages the threat of multiple legal charges, and rehabilitation institutions impose fees on individuals or their families.

The rules governing non-governmental organizations are internal, which means they cannot be made transparent, allowing them to determine the fees they charge clients freely. The question is, what if the person who uses drugs cannot afford the rehabilitation service? The fact that we found is that they also experienced violence and inhumane acts. Usually, this begins with a threat to be returned to the police, which, from a legal perspective, cannot be carried out. In practice, when the police have placed the person who uses drugs into rehabilitation services owned by non-governmental organizations, the police tend to release responsibility and hand over entirely to the rehabilitation institution that receives the transfer. This means that the judicial proceedings against them stopped.

This practice undermines police accountability and disregards the legal status of people who use drugs in testing the validity of the coercive measures previously taken by law enforcement. Because this often happens to individuals who lack legal awareness, they are left with limited options. Many are forced to contact relatives or family members and resort to taking on debt. Some even attempt to escape from rehabilitation facilities operated by non-governmental organizations. This situation is further exacerbated by the fact that several non-governmental organizations running rehabilitation services are reportedly managed or chaired by law enforcement officers. This gives the impression that drug rehabilitation has become a promising and protected business venture.

In the context of trafficking in persons, these conditions may not directly involve the exchange of individuals for goods or money. However, referring to the definition provided in Article 1 point 1 of Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons (PTPPO Law), key elements such as “receiving a person under threat of violence,” “use of force,” “detention,” “abuse of power or a position of vulnerability,” and “debt bondage or provision of payment or benefits” are clearly present. This shows that current practices in drug rehabilitation policy are closely related to the elements that constitute trafficking in persons.

Trafficking in persons is an act fundamentally opposed to the respect for human dignity. The international community has agreed upon the scope of trafficking in persons through a legal instrument known as the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. This protocol was established as a supplement to the *United Nations Convention Against Transnational Organized Crime*, which, as of 20 October 2023, has been ratified by at least 193 UN member states.²⁷ Article 3, letter (a) of the protocol provides a generally accepted definition of trafficking in persons: “trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person,

27 <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>

for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

From this definition, there are three key elements in the formulation of the crime of trafficking in persons, which can be described as follows²⁸:

1. Act: This refers to the conduct itself, which may include the recruitment, transportation, transfer, harboring, or receipt of persons.
2. Means: These are the methods used to carry out the act, which may involve threats or use of force, coercion, abduction, fraud, deception, abuse of power or a position of vulnerability, or the giving or receiving of payments or benefits to obtain the consent of a person who has control over another person.
3. Purpose: The intended outcome of the act is exploitation.

Over time, human trafficking has evolved into a wide range of schemes and methods. In 2022, the United Nations Office on Drugs and Crime (UNODC) recorded at least 74,785 victims of human trafficking worldwide. Of these, 38 percent were children (22 percent girls and 16 percent boys), and 62 percent were adults (39 percent women and 23 percent men). The most prevalent forms of trafficking involved forced labor and sexual exploitation. Other purposes included involvement in criminal syndicates, forced marriage, organ harvesting, and various forms of layered exploitation.²⁹

Based on the description of forced drug rehabilitation schemes that are integrated with the criminal justice system, the Research Team concludes that the situation intersects with several elements of the crime of trafficking in persons. This is evident in the trafficking in persons case that occurred in Langkat Regency, where rehabilitation practices were used as a means to receive groups of people who use drugs. Although these individuals initially sought intervention for drug dependence, the rehabilitation process was misused and ultimately exploited.

28 Aditya Weriansyah, et al., *Tinjauan Hukum Implementasi Undang-Undang No. 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang (UU PTPPO) di Indonesia*, (Jakarta: International Organization for Migration Indonesia, 2023), p. 9.

29 https://www.unodc.org/documents/data-and-analysis/glotip/2024/GLOTIP2024_BOOK.pdf

At the District Court level, the Defendant argued that he had only established a shelter functioning as a place of healing, which the Pemuda Pancasila CSO managed. The Defendant also stated that the facility was built on land owned by his parents and that they had granted the necessary permission for its use. Regarding the alleged criminal act, the Panel of Judges at the Stabat District Court concluded that the Defendant's actions were not proven legally and convincingly as stated in the Public Prosecutor's indictment. The judges reasoned that there was no direct connection between the Defendant's actions and the victim's testimony. Instead, the panel asserted that another individual, Terng Ukur, was the one who had committed acts of violence against the victim. On 8 July 2024, the Panel of Judges at the Stabat District Court issued an acquittal for the Defendant, dismissing the Public Prosecutor's demand for a 14-year prison sentence and restitution of IDR 2.3 billion.

At the cassation level, the Supreme Court overturned the acquittal and sentenced the Defendant to four years in prison. The Court upheld the Public Prosecutor's cassation request because the decision of the Stabat District Court was flawed. The cassation panel found that the lower court had failed to apply relevant legal provisions properly, had based its ruling on incorrect legal reasoning and considerations, and had disregarded legally pertinent facts that were established during the trial. However, a concerning aspect of the cassation decision is the reduced sentence length and the absence of restitution for the victim. These omissions have further entrenched the stigma surrounding the victim, placing them in a vulnerable position with limited recourse. As a result, the victim's rights remain unaddressed and unfulfilled. This situation is even more troubling given that the individuals behind this crime against humanity were state officials who abused their authority for personal gain.

The weak supervision mechanism in drug rehabilitation institutions is one of the main contributing factors to human rights violations, including trafficking in persons. This concern was highlighted by Mochamad Tommy Permana, who emphasized the importance of oversight by law enforcement institutions over the implementation of rehabilitation, particularly in facilities operated by private entities or community-based components.³⁰ The supervision mechanism

30 Permana, Mochammad Tommy. Expert of the Witness and Victim Protection Agency. Community Representatives.

should be integrated and coordinated to prevent any attempts by responsible institutions to avoid accountability.

An expert from the Witness and Victim Protection Institute emphasized the importance of supervision as a form of mitigation against the practice of syndicate camouflage, including both the illicit circulation of drugs and trafficking in persons, which creates new forms of exploitation for victims. In practice, however, the police, who are mandated to prevent criminal acts, have instead opened new gaps through the issuance of National Police Regulation of the Republic of Indonesia Number 8 of 2021 on the Handling of Crimes Based on Restorative Justice (Perpol 8/2021). This regulation explicitly allows for individuals who use drugs to be placed in rehabilitation before a court verdict is issued, on the basis that they have undergone a restorative justice process. The rule is widely viewed as an attempt to transfer a narrative that the Supreme Court previously regulated into the jurisdiction of the police.

C. THE INDONESIAN LEGAL SYSTEM'S RESPONSE TO DRUG REHABILITATION PRACTICES WITH THE POTENTIAL TO CAUSE HUMAN TRAFFICKING

The trafficking in persons case that occurred in Langkat Regency in 2022 stands as a dark chapter in Indonesia's human rights history. The incident reaffirmed the structural vulnerability faced by people who use drugs under the country's punitive drugs policy regime. The use of rehabilitation as an alternative to punishment is insufficient in addressing the core issues. The persistent stigma surrounding people who use drugs continues to distance them from health-based interventions that are grounded in the principles of respect, fulfillment, and protection of human rights. Compulsory rehabilitation institutions are commonly known as places where individuals who use drugs, or who are merely suspected of doing so, are forcibly detained with the stated goal of encouraging them to stop using drugs. However, in most cases, there is no clinical evaluation to determine whether the individual is actually experiencing problematic drug use. Additionally, there is often little to no legal process

associated with the detention.³¹

A report by the United Nations Office on Drugs and Crime (UNODC) has reinforced longstanding criticism that mandatory rehabilitation is ineffective in addressing public health conditions and fails to reduce the likelihood of relapse into drug use or criminal behavior.³² A similar conclusion was reached in a 2021 study by the Working Group on Arbitrary Detention, operating under the UN Human Rights Committee. The study found no evidence that mandatory rehabilitation for people who use drugs contributes to meaningful health recovery. The risk of relapse remains high under this model. In contrast, voluntary interventions for drug dependence show relatively higher recovery rates. This evidence forms the basis of the Working Group's recommendation to provide voluntary, evidence-based, and human rights-oriented health and social services as alternatives to compulsory detention centers for drugs dependency treatment.³³

Anis Hidayah, one of the key informants in this study, highlighted several vulnerability factors commonly experienced by victims of trafficking in persons. These include weak financial conditions, relatively low levels of education, limited access to information, and situations in which the perpetrators are state actors who abuse their authority. The case of modern slavery in Langkat Regency serves as concrete evidence of how power can be exploited for personal gain under the guise of drug rehabilitation, revealing a disturbing misuse of institutional authority through modern slavery schemes.³⁴

Potential human rights violations and trafficking in persons under the guise of drug rehabilitation have also been highlighted in the same report by the Working Group on Arbitrary Detention. In addition to instances of torture, forced rehabilitation facilities create opportunities for exploitative labor practices, including unpaid forced labor under harsh and inhumane conditions. Victims are often subjected to physical abuse and further detention as punishment when they fail to meet imposed work targets. Such forced labor systems have

31 Global Commission on Drug Policy, Position Paper, Drug Policy and Deprivation of Liberty, 2019, p. 21. https://global-commissionondrugs.org/wp-content/uploads/2025/04/PP2019_EN_150620_web.pdf

32 Lihat: https://www.unodc.org/roseap/uploads/archive/documents/Publications/2022/Booklet_1_12th_Jan_2022.pdf

33 <https://docs.un.org/en/A/HRC/47/40>

34 Interview with Anis Hidayah, who is the Chairperson of Komnas HAM RI, in her capacity as an expert, on June 12, 2025

no scientific foundation and cannot be justified as a method of treatment or recovery for drug dependence.³⁵ This issue is closely linked to the readiness of the judicial system to respond to trafficking crimes that take place under the cover of drug rehabilitation, whether operated by government bodies or private institutions.

Although the Narcotics Law and the PTPPO Law contain specific provisions related to formal legal procedures, the Criminal Procedure Code remains the primary legal instrument guiding the operation of the criminal justice system in Indonesia. As a formal legal framework, the Criminal Procedure Code should serve to correct harmful paradigms and reduce the negative stigma attached to people who use drugs, particularly among law enforcement officers who handle such cases directly. In this way, the Code can play a vital role in preventing rights violations against all individuals who come into contact with the law, whether as victims or as accused persons.

If there is a violation of rights during the law enforcement process, the Criminal Procedure Code should also provide a mechanism for recovery through an accountable legal review. However, the current Criminal Procedure Code, which has been in effect for more than 40 years, is increasingly seen as outdated and no longer responsive to the needs of justice seekers, particularly people who use drugs, who face the reality of punitive drug policy. The events that took place in Langkat Regency should serve as a warning for the state, especially for law enforcement authorities, to address similar patterns of abuse that may be occurring in other parts of the country.

Improving the criminal justice system is a key agenda in addressing the shortcomings of current law enforcement practices in meeting the needs of justice seekers. Coercive measures, which involve the restriction or reduction of a suspect's liberty and human rights, must be carried out with full responsibility and in strict accordance with legal procedures and applicable laws. These actions must adhere to the principle of due process of law.³⁶

³⁵ Ibid.

³⁶ Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP. Pemeriksaan Sidang Pengadilan, Banding, Kasasi, dan Peninjauan Kembali*, (Jakarta: Sinar Grafika, 2015), p.3.

Particularly in drug cases, coercive measures such as arrest for an initial period of 3 x 24 hours, which may be extended for the same duration,³⁷ are among the first critical issues requiring special attention. In practice, the justifications often cited for these arrests relate to ongoing evidence collection, the case still being under development, or the use of vague terminology such as “secured” for now. However, Article 17 of the Criminal Procedure Code clearly states that an arrest may only be made against a person suspected of committing a criminal offense based on sufficient preliminary evidence.³⁸ There is no provision in either the Criminal Procedure Code or the Narcotics Law that recognizes the term “secured” as a legal basis for detention. Therefore, actions and statements made by investigators that invoke this term constitute a form of arbitrary conduct and a violation of an individual’s right to liberty.

As previously mentioned, the integrated assessment mechanism is one component that has received criticism and requires thorough evaluation. This is due to both its regulatory framework and its implementation, which in practice can create opportunities for human rights violations. During the extended period of arrest, individuals often face an unclear legal status for up to six days following their detention, raising serious concerns about procedural fairness and legal certainty.

In practice, investigators, whether or not an assessment has been conducted, may transfer an arrested individual to a rehabilitation institution without accountable oversight. These transfers often occur without proper documentation, allowing the police to relinquish responsibility and shift it entirely to the receiving rehabilitation institution. Unfortunately, as discussed in the previous chapter, the state has failed to ensure comprehensive supervision of drug rehabilitation services, particularly those operated by community-based or private entities.

Although the principle of *lex specialis* is recognized within Indonesia’s legal system, its application in this context lacks a clear legal basis. International

37 Narcotics Law, Article 76

38 The explanation of Article 17 of the Criminal Code, which is meant by “sufficient preliminary evidence” is preliminary evidence to suspect the existence of a criminal act in accordance with the reading of Article 1 number 14. This article stipulates that arrest warrants cannot be made arbitrarily but are aimed at those who are suspected of actually committing criminal acts.

standards on arrest can be referred to in General Comment No. 35 to Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which states that suspects must be brought before a judge as soon as possible, and in any case, within a maximum of 48 hours following arrest. The definition of “immediate” in this context depends on the specific objective circumstances. However, the UN Human Rights Committee considers that 48 hours is generally sufficient to prepare an individual to appear before a judge. In cases involving children, the regulation is stricter, with a required timeframe of no more than 24 hours.

Prolonged detention by law enforcement officials without judicial oversight increases the risk of ill-treatment for detainees.³⁹ This risk becomes more pronounced while individuals remain in custody. Such inconsistencies contribute to the existence of rules that allow extended periods of detention, which can ultimately lead to *incommunicado* detention, where individuals are held without access to the outside world. This creates the potential for abuse of authority by individuals, including acts of torture and other cruel, inhuman, or degrading treatment. For this reason, the provisions regarding the duration of arrest under the current Narcotics Law regime should be reviewed and amended. The period should no longer be six days, but reduced to one day, aligning with the standard already established in Article 19 of the Criminal Procedure Code.

In connection with the authority to carry out coercive measures, criticism of the Criminal Procedure Code is also directed at the judicial oversight mechanism, which is considered to fall short of fully reflecting the principle of checks and balances. Oversight under the Criminal Procedure Code is carried out through the Pretrial mechanism. The establishment of the Pretrial institution was initially received positively within the criminal justice system, as it was seen as comparable to the *habeas corpus* principle found in the Magna Carta. However, the horizontal oversight model embedded in the Pretrial institution has led to

39 “While the exact meaning of “promptly” may vary depending on objective circumstances, delays should not exceed a few days from the time of arrest. In the view of the Committee, 48 hours is ordinarily sufficient to transport the individual and to prepare for the judicial hearing; any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances. Longer detention in the custody of law enforcement officials without judicial control unnecessarily increases the risk of ill treatment. Laws in most States parties fix precise time limits, sometimes shorter than 48 hours, and those limits should also not be exceeded. An especially strict standard of promptness, such as 24 hours, should apply in the case of juveniles.”

several problems. Although inspired by the concept of habeas corpus, Pretrial judges have generally proven ineffective in exercising meaningful oversight over investigators, particularly in their use of coercive powers.

In practice, the examination of Pretrial applications is mainly limited to purely formal administrative aspects. As a result, this mechanism is ineffective in providing adequate protection for Indonesian citizens against potential rights violations and abuses of authority by investigators.⁴⁰ There is no testing mechanism to evaluate whether a coercive measure is genuinely necessary and urgent. Furthermore, no regulation or procedure requires the court to conduct a substantive review before granting permission or approval for the enforcement of coercive actions.

Additionally, under Indonesia's current legal system, there is no forum available for further review or challenge of the coercive measures that have been, or are being, carried out by investigators. The process of granting permits or approvals relies almost entirely on formalities, without any requirement for substantive examination. As a result, the court is often unable to determine whether the use of coercive state authority is genuinely necessary for law enforcement purposes and whether it has been conducted by applicable legal provisions, thereby justifying judicial approval.⁴¹ This lack of scrutiny has serious implications for the implementation of coercive measures, which can serve as an enabling factor of human rights violations. Efforts to tighten and regulate the authority to carry out such measures should not be viewed as obstructive. Instead, they represent a necessary form of respect for individual human rights in situations where personal freedom is lawfully restricted in the interest of justice.

40 Supriyadi Widodo Eddyono, et al., *Praperadilan di Indonesia: Teori, Sejarah, dan Praktiknya + Pedoman Penahanan bagi Penegak Hukum*, (Jakarta: Institute for Criminal Justice Reform, 2014), p.5.

41 Muhammad Tanzil Aziezi dan Arsil, *Asesmen Sistem Peradilan Pidana Indonesia*, (Jakarta: Kemitraan Partnership, 2023), p. 85.



III. CONCLUSIONS AND RECOMMENDATIONS

Based on the discussion above, the Research Team has drawn several conclusions derived from the analysis of the findings in this research:

1. Based on the case involving the former Langkat Regent, the three essential elements of trafficking in persons were found to be present: 1) the existence of a shelter for people who used drugs located on land owned by the Regent; 2) the presence of coercive elements, including threats, violence, kidnapping, fraud, deception, abuse of power or a position of vulnerability, and the giving or receiving of payments or benefits to obtain control over another person—people who use drugs placed in this so-called “coaching facility” were forced to work without wages on the Regent’s oil palm plantation; and 3) the purpose of exploitation. The punitive nature of Indonesia’s drug policy, combined with weak evaluation mechanisms and entrenched social stigma, serves as a systemic enabler for trafficking in persons under the guise of rehabilitation.
2. The Narcotics Law, as the primary legal instrument governing drug policy in Indonesia, has not demonstrated sufficient sensitivity in addressing or mitigating human trafficking practices that occur under the guise of rehabilitation. Similarly, the broader regulatory framework, as outlined in various laws and regulations, fails to provide clear and consistent guidelines on how individuals in conflict with the law can access rehabilitation. One of the most frequently criticized aspects is the police’s handling of cases. This is due to the broad discretionary authority held by law enforcement in

determining whether an individual will undergo a formal legal process that may result in imprisonment or be diverted to rehabilitation, often through a mechanism that lacks transparency, accountability, and involves non-standard or informal costs.

3. The criminal justice system in Indonesia does not yet have a comprehensive regulatory framework for addressing trafficking in persons crimes that occur under the guise of drugs rehabilitation. This gap is rooted in the relatively long duration of detention permitted in drugs cases, combined with weak supervisory mechanisms. The six-day detention period creates opportunities for structural abuse, including the transfer of individuals to unregulated rehabilitation institutions. Unfortunately, the Criminal Procedure Code does not provide a clear review or testing mechanism to evaluate such practices. Coercive measures, which represent a significant restriction on personal liberty and should serve only as a last resort in law enforcement, remain poorly regulated. Establishing a transparent and accountable mechanism to assess the necessity of such measures should become a top priority in reforming the Criminal Procedure Code. This would significantly reduce the risk and occurrence of human rights violations, particularly in the context of the enforcement of drug-related crimes in Indonesia.

This research presents a number of recommendations, namely:

1. The government needs to revise the Narcotics Law to adopt an approach centered on health-based interventions. The punitive policy model, framed through the narrative of a “war on drugs,” has proven ineffective in reducing the incidence of drug-related crimes. Health-based interventions must be grounded in human rights principles, including the clear separation of rehabilitation efforts for people who use drugs from the punitive framework of the criminal justice system. The right to treatment and recovery must be *voluntary*, not *mandatory*. This shift is essential to prevent ongoing human rights violations, including the recurrence of trafficking in persons under the guise of drug rehabilitation.

2. The government needs to revise the Trafficking in Persons (*PTPP*) Law to better accommodate the conditions faced by vulnerable groups, including people who use drugs. The persistent and deeply rooted stigma surrounding drug use places this group at heightened risk of becoming victims of trafficking in persons. The law must be responsive to evolving trafficking methods, including those occurring through punitive forms of drug rehabilitation. In parallel, there must be greater sensitivity and awareness among law enforcement officials to identify and respond to cases of trafficking in persons that are carried out under the pretense of drug rehabilitation programs.
3. The government needs to update the Criminal Procedure Code (*KUHAP*), the primary legal instrument governing the Indonesian criminal justice system. This reform is essential to provide stronger protections for justice seekers when confronted with the authority of the state. The revision of the Criminal Procedure Code must be grounded in the fulfillment of human rights principles, particularly through the reinforcement of a checks-and-balances system among law enforcement institutions. Any coercive measure, including arrest, must be subject to a precise accountability mechanism that involves judicial oversight. Strengthening judicial supervision and establishing an objective review forum for law enforcement actions are crucial components that must be enhanced to ensure due process and prevent the abuse of power.

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