FAILING DRUG POLICY STRATEGY

Series of Monitoring and Documentation on Human Rights Violantions in Indonesia



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INTRODUCTION

War comes with consequences and implications. The government of Indonesia believes that we are now in a state of war; namely war on drugs. This jargon, the war on drugs, is often used to increase society's negative sentiment against drugs and its users. One of the most important tools in this war is policy. Since the President of Indonesia, Joko Widodo, called for the war on drugs in his early presidency, law enforcement agencies have intensified two types of responses in this war, namely criminalization and death penalty. Unfortunately, none of these responses has brought significant improvement of the situation.

With years of experiences in assisting drug offenders and drug reform advocacy, LBH Masyarakat believes that the war on drugs is obsolete. The same responses have been carried out by many countries to fight against drugs, but to no avail.

Apart from policies, the current war on drugs is also equipped with propaganda. This propaganda is easily accessible through online media. In 2016, LBH Masyarakat monitored and documented news from online media on two issues related to drugs. The first issue is on large-scale drug bust, whereas the second one is on drug dealing in or from prison setting. We select these issues because we believe that they may show the level of effectiveness of the two responses that the government undertook, as well as other interesting elements that are involved in the law enforcement efforts.

We hope that the result of this monitoring and documentation can enhance the dialogue processes towards drug policy reform. Indeed, illicit drug trafficking needs to be effectively tackled. However, the means and strategy to do that must be based on and respect the principles of human rights, as well as evidence.

MONITORING AND DOCUMENTATION METHOD

LBH Masyarakat conducted the monitoring and documentation of online news throughout 2016. This method was chosen for some reasons, inter alia: efficiency, effectiveness, and the speed of the flow of information. There were some barriers faced during the monitoring and documentation, such as limited human resources as well as the limitation of information available on online news, where most of it does not have in-depth information.

To get the particular news that we needed, we used some key words on the search engine. These key words are 'narcotic', 'narcotic arrest', 'narcotic in prison', 'narcotic bust', and 'raid in prison'. We then documented and analyzed the news that we have gathered.

Due to the above-mentioned limitation, we eliminated some news are that are lacked of clarity and direct relevance with the two issues that we are monitoring. This makes the total number of news we monitor on large-scale drug bust into 729 news, and that of on drug dealing in or from prison setting into 120 news. Below is the list of the online media that we use as source:

Drug Dealing in or from Prison Setting (Peredaran Dalam Lapas - PDL)

No.	Media	Number	No.	Media	Number
1	Okezone	40	18	Suara	2
1					
2	Republika	9	19	Vivanews	2
3	Detik	8	20	Berita Sore	1
4	Tribunnews	7	21	Detik	1
5	Liputan 6	5	22	Fokus Jabar	1
6	Kompas	4	23	Go Bekasi	1
7	Berita Satu	3	24	Inikata	1
8	Prokal	3	25	Inilah.com	1
9	Sindonews	3	26	Inilah Koran	1
10	Tempo.co	5	27	iWarta	1
11	Antara	2	28	Kabar24	1
12	CNN Indonesia	2	29	Koran Kaltim	1
13	Harian Haluan	2	30	Kriminalitas	1
14	JPNN	2	31	Rakyatku	1
15	Klik Samarinda	2	32	Rimanews	1

16	Otonominews	2	33	Suara Merdeka	1
17	Pikiran Rakyat	2	34	URI	1
				Total	120

Large-Scale Drug Bust (Penggerebekan Narkotika Skala Besar - PSB)

No.	Media	Number	No.	Media	Number
1	Okezone	266	48	Riau One	2
2	Kompas	49	49	Riaubook	2
3	Tribunnews	49	50	Solopos	2
4	Liputan 6	28	51	Suara Merdeka	2
5	Kompas Cetak	23	52	Tangeranghits	2
6	Berita Satu	22	53	VOA Indonesia	2
7	Republika	21	54	Warta Kota	2
8	Sindonews	19	55	Aceh Terkini	1
9	Tempo	17	56	Analisa Daily	1
10	Detik	16	57	Berita 8	1
11	Metro TV News	12	58	Bontang Prokal	1
12	CNN Indonesia	11	59	Fajar	1
13	Antara News	10	60	Fajar National	1
				News Network	
14	Poskota News	10	61	Fajar SulSel	1
15	Prokal	10	62	Go Riau	1
16	Inilah	8	63	Harian Jogja	1
17	Jawa Pos	7	64	iWarta	1
18	Bangka Pos	5	65	Jaringnews	1
19	Inikata	5	66	Kabar Tangsel	1
20	Merdeka	5	67	Kedaulatan	1
				Rakyat Jogja	
21	Pojok Satu	5	68	Klik Sangatta	1
22	Banjarmasin Post	4	69	Lampung Post	1
23	Harian Haluan	4	70	Makassar Today	1
24	Indopos	4	71	Malang Post	1
25	Koran Kaltim	4	72	Medanbisnisdail	1
				у	
26	Pikiran Rakyat	4	73	Netralnews	1
27	Riau Post	4	74	Pena Merdeka	1

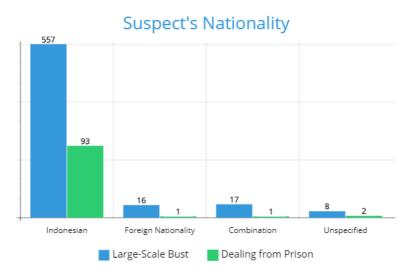
28	Rimanews	4	75	Pojok Jabar	1
29	Tribun Bali	4	76	Portal Madura	1
30	Viva News	4	77	Prokalteng	1
31	Waspada	4	78	Radar Banyumas	1
32	Berita Sore	3	79	Radar Pekalongan	1
33	Go Aceh	3	80	Riau Editor	1
34	Kabar 24	3	81	Riau Terkini	1
35	Otonominews	3	82	Riaumandiri.co	1
36	Rakyatku	3	83	RiauNews	1
37	Batampos	2	84	Serambi	1
38	Berita Jatim	2	85	Siaga Indonesia	1
39	Delik News	2	86	Swajepara	1
40	DNA Berita	2	87	Tabengan	1
41	Harian Terbit	2	88	Teras Lampung	1
42	Infonitas	2	89	TobaSatu	1
43	JPNN	2	90	Tribun Jambi	1
44	Klik Bontang	2	91	Tribun Makassar	1
45	Kriminalitas	2	92	Tribun	1
				Pekanbaru	
46	Krjogja.com	2	93	Tribun	1
				Pontianak	
47	Lensa Indonesia	2	94	URI	1
		Total	= 729		

DATA RESULT AND ANALYSIS

Those Who Are Involved and Entrapped

A. Profil of the Alledged

Throughout 2016, we collected more than 800 news articles related with largescale drug bust and drug dealing in or from prison setting. From those news articles, we documented some information related with the profile of the alleged. As seen on the tables below, we eliminated some news articles since they have no relevance with the two issues and/or there is some duplication of the news. Some other news articles have no information on the alleged. We categorize this kind of news as 'unknown'. Below is the table on the nationality of the alleged:



As seen above, the nationality of the alleged persons varies. Some are Indonesians, while others are foreigners. There are also 17 cases, or around 5% of large-scale drug bust and 1 case, or around 2% of drug dealing activities in or from prison setting, where the alleged persons are both Indonesiansand foreigners. This number suggests that drug offence is part of internationally organized crime. This number may have been bigger if we include the official number from the Indonesian National Police (INP) and the National Narcotic Board (NNB).

The news on the issue of nationality of the alleged is closely related with death penalty and its execution in Indonesia. During its presidency, Joko Widodo has executed eighteen prisoners on death row, of whom all are drug offenders. Fifteen of them are foreign nationals. Indonesia's move to execute foreign nationals symbolizes its message to foreign nationals not to deal with drugs in Indonesia. Otherwise, they will be sentenced heavily. The government of Indonesia believes that foreigners dominate the number of alleged drug offenders. However, the above data shows the contrary. More than ninety percent (90%) of the alleged of large-scale drug busts and drug dealing in or from prison cases are Indonesian nationals.

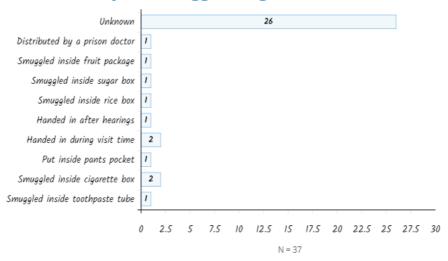
The high percentage of Indonesian nationals as the alleged of these two types of cases should not be read as an indication of the need to target death penalty execution to Indonesian nationals on death row in the name of war on drugs. It is possible that many of the Indonesian nationals involved in drug trafficking are not aware of the consequences, or even are used for the benefits of a bigger drug mafia, who might either be Indonesian or foreign national. Therefore, the government of Indonesia must be more careful in choosing its approach to deal with the issue of illicit drug trafficking.

Regardless of how difficult the challenge to overcome illicit drug trafficking is, death sentence for drug offence should never be applied. It violates human rights and is not in line with international human rights standards. Besides, the deterrence effect applied to support the use of death penalty is never backed up with evidence. In fact, the NNB admits the ineffective use of death penalty and its lack of deterrence effect.i

What causes the consistent high demand of drugs despite the harsh approaches? What type of social determinants drives the high demand of drugs? What type of international cooperation is necessary to decrease drug trafficking? Why are people involved in drug trafficking?

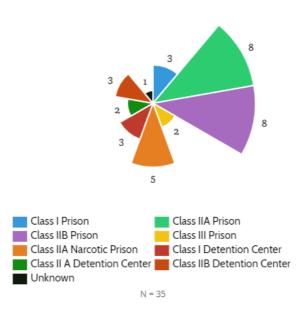
Illicit drug trafficking must be addressed comprehensively. The government of Indonesia must answer the above questions, and other questions related with illicit drug trafficking, in order to develop or create effective policies to overcome it while at the same time still respects and fulfills its human rights obligations. The application of death penalty for drug offence shows the government's inability to identify and overcome the root of the problems.

Ways to Smuggle Drugs into Prison



Once found guilty, an offender will spend his/her sentence in a correctional facility. The Correctional Facility, often called prison or detention center, is aimed to rehabilitate and to prepare inmates to re-integrate with his/her community or neighborhood after his/her serving time. Our data shows that there are ninety-seven inmates who attempted to control drug traffic from inside prison. In six cases, the alleged tried to smuggle drugs into or from prison inside his/her belongings, such as cigarette box, rice box, toothpaste or even sugar package. All of the smuggled drugsare brought at therequest of the alleged persons who are imprisoned. The motives behind it vary. Some sell the drugs inside prison for survival reason, while some others are addicted to drugs so that they have medical needs to keep consuming it.

Types of Prison Suspected



From our monitoring, we also found cases where the drugs were smuggled into court prison. The alleged person was, at that time, attending his hearing. Another case happened with a prison doctor smuggling drugs into prison. The high demand of drugs from inside prison has led to the cases of drug smuggling into prison and drug dealing in prison. This situation does not only show a lack of effective drug control strategy, but also the security issue within the prison setting. The government of Indonesia should pay extra attention to this situation since the current criminalization approach seems to have no impact, or even further exacerbate the drug dealing/smuggling in prison.

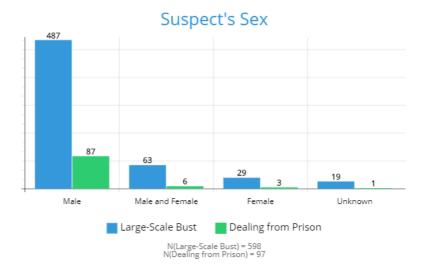
LBH Masyarakat believes that this problem could have been addressed by decriminalizing drug use, and creating enabling environment where drug users are encouraged to access medical treatment suitable for their condition.

Location of Arrest of Attempted Drug Dealing/Smuggling into Prison



From the news compiled, suspect who are caught with drug possession usually arrested outside prison (correctional facilities/detention center). However, based on the suspect's information revealed to the media, the drugs would be delivered into the prison or even come from prison to be distributed outside. These kinds of case eventually evoke negative image about prison control management.

Evaluation of the quality of security control in prison needs to be undertaken immediately. A transparent and credible prison system with a good integrity is one of the aspects of a more humanist drug policy. Challenges such as limited human resources (both in quantity and in quality) and their welfare must be addressed. The current drug policy itself, which allows a person to be imprisoned for a long time, must be changed in order to foster the prison system reform. Putting drug users in prison will never solve Indonesia's drug problem as itonly shifts drug demand from outside to inside prison.



The above diagram shows that women are involved in at least fifteen percent (15%) of the large-scale drug bust cases and nine percent of drug control in or from prison cases. Women's involvement, althoughinsignificant in quantity, deserves a more in-depth analysis. There are not many academic researches on the topic of women involvement in illicit drug trafficking, yet the social and economic condition of women make them more vulnerable when involved in illicit drug trafficking, both with or without their intention. Out of the eighteen people executed between 2014 - 2016, two are women, namely Rani Andriani and Tran Bich Hanh, of Indonesian and Vietnamese nationalities respectively. Two other women, Mary Jane Veloso and Merri Utami, of Filipina and Indonesian nationalities respectively, were halted from execution temporarily.

B. Underage Person in Large-Scale Drug Bust

Numer of Underage Person in Large-Scale Drug Bust

No.	Yes/No	Number
1	No	577
2	Yes	15
3	Unknown	6
Total		598

In fifteen of the large-scale drug bust cases the alleged persons areunderage. No underage involvement is found in drug dealing in or from prison, except in one case where the alleged person admits using an underage person as a drug mule.ⁱⁱⁱ

In some cases, it is reported that an underage person is exploited as a tool for drug trafficking or dealing. An investigation report released by CNN Indonesia explains comprehensively on how underage persons are exploited by illicit drug traffickers network in Surabaya, East Java. The difficulties in uncovering drug dealing by underage person, the more lenient punishment, their loyalty, as well as the less money spent to pay underage person are believed to be the reason for the exploitation. Based on the report by CNN Indonesia, drug traffickers usually target underage persons with the following criteria: 10 - 17 years old, still enrolled in school, a quiet person, and comes from a low to middle income family.

However, this situation does not mean that the government of Indonesia must give a harsher punishment for underage drug offenders. We believe that this problem will not be solved by the current approach of criminalization. The government of Indonesia must adapt a multi-sectoral approach engaging different actors from different backgrounds, such as education activists, academics, and and those from the family planning sector.

Type of Drugs

We have analyzed the profile of the alleged, both for large-scale drug bust and drug dealing in or from prison setting. In this section, emphasized will be given in analyzing the type of drugs.¹

¹ It is important to note that when a type of drug is mentioned, it does not always mean that the drug is in its pure form. For example, when it is mentioned that the police found one ecstasy pill, it does not necessarily mean that such pill contains 100% MDMA. There is a tendency that the drugs trafficked in Indonesia is mixed with other substances. The potential harm arising from mixing substances is often used as an argument for legalisation of drugs. In some European countries the initiative to provide drug testing to ensure the purity of the drugs is being undertaken.

Number of Large-scale Drug Bust Cases and the Type of Drugs

No.	Drugs	Amount
1	Crystal Methamphetamine	431
2	Cannabis	157
3	Ecstasy	108
4	Double L/Trihexyphenidyl HCl	17
5	Happy Five	13
6	Dextro	5
7	Unknown	4
8	Psychotropic (Unspecified)	4
9	Pil Koplo²	4
10	Tramadol	4
11	Zenith	3
12	Aprazolam	2
13	Heroin	3
14	Hexymer	3
15	Riklona Clonazepam	2
16	Dumolid	1
17	Hashish	1
18	Somadryl	1
	Jumlah = 763	

Number of Drug Dealing in or from Prison and the Type of Drugs

No.	Jenis Narkotika	Jumlah
1	Crystal Methamphetamine	86
2	Ecstasy	16
3	Cannabis	9
4	Double L	2
5	Unknown	1
6	Aprazolam	1
7	Camlet	1
8	Happy Five	1

² *Pil Koplo* or Koplo pill is a generic term shared by the public and media about cheap, widely spread, and highly adultered pill that usually consists of benzodiazepine, a tranquilizer.

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9	Riklona Clonazepam	1	
10	Subuxone	1	
11	Xanax	1	
	Jumlah = 120		

The main type of drugs confiscated on both large-scale drug bust and drug dealing in or from prison cases is crystal methamphetamine, amounting to 56% and 72% respectively. Cannabis, ecstasy, and double L³ pills sit on the second, third, and fourth position respectively for both cases.

Meanwhile, data on the amount of drugs confiscated for both cases can be seen below:

Amount of Drugs on Large-scale Drug Bust

	Amount of Drugs on Large scale Drug Dust				
No.	Drugs	Amount	Unit		
1	Crystal	22	small package		
	Methamphetamine	4.226.110,99	gram		
		2.044	large package		
		11	plastic bag		
		9	sachet		
2	Cannabis	151	ampel ⁴		
		19.144	plants		
		5.693.282,64	gram		
		294	acre		
		7	joint		
		958	package		
		1	plastic		
3	Ecstasy	480.100	pills		
		28.048,9	gram		
4	Double L	554.322	pills		

³ Double L is a street name given to Trihexyphenidyl HCl, a substance often used to treat Parkinson disease. This substance is not categorised as 'narcotic' under Law Number 35/2009. However, the abuse of such drugs is considered as a crime under Law Number 36/2009 regarding Health.

⁴ Ampel is a term that commonly used by the media and police to refer as a unit to count cannabis. One ampel is a little amount of cannabis that wrapped with a piece of paper.

		26.090	gram
5	Happy Five	902.297	pills
		1.510,81	gram
6	Dextro	72.618	pills
7	Psychotropic	67.021	pills
	(Unspecified)	110	gram
8	Pil Koplo	776.85	butir
9	Tramadol	131.965	pills
10	Trihex	911	pills
11	Zenith	35.302	pills
12	Aprazolam	49	pills
13	Heroin	45,78	gram
14	Hexymer	1.240	pills
		9.000	gram
15	Riklona	10	pills
	Clonazepam	12	gram
16	Dumolid	7,47	gram
17	Hashish	320	gram
18	Somadryl	98	pills

Amount of Drugs on Drug Dealing in or from Prison

No.	Drugs	Amount	Unit			
	INSIDE PRISON					
1	Alprazolam	44	pills			
2	Camlet	8	pills			
3	Double L	40	pills			
4	Ecstasy	5	pills			
5	Cannabis	2.000	gram			
		1	package			
6	Riklona	101	pills			
	Clonazepam					
7	Crystal	5.296,68	gram			
	Methamphetamine	42	package			
8	Subuxone	42	pills			
9	Xanax	70	pills			
	OU	TSIDE PRISON				

1	Double L	26.967	pills
2	Ecstasy	269.984	pills
		250	gram
3	Cannabis	2.714,55	gram
		1	joint
		1	package
4	Happy Five	6.000	pills
5	Crystal	95.858,84	gram
	Methamphetamine	173	package

Some important issues need to be analyzed from the above tables. First, the different unit used to measure the drugs used by journalists has caused ambiguity in measuring the real amount of drugs. As can be seen above, there are five different units of measurement used for crystal methamphetamine, namely package, gram, wrap, plastic, and sachet. The terminology 'plastic' does not tell anything about the amount of drugs contained in it as different person might have a different idea on how big the plastic is. In this era, society relies heavily on online media to get instant information. Therefore, it is important to ensure that the information provided is not only given in a quick time, but also based on facts so that there is no ambiguity that may raise public hysteria or panic. Also, civil society organisations may utilise the information on the amount of drugs confiscated for their research, or for public control over law enforcement agencies.

Second, information on the amount of drugs confiscated indicates the current trends on drug use. Amphetamine-type substances (ATS), such amphetamine, methamphetamine, and others, are the main types of drugs confiscated. This is in line with the official data from the UNODC's 2016 World Drug Report. The report captures the increasing number of people with ATSrelated problems in Asia, where more than 500.000 people have ATS addiction problems and are enrolled in treatment. The number is actually lower than 600.000 people with opioid addiction problems who are enrolled in treatment, although this figures is not shown in our monitoring.

The above phenomenon reflects a high demand of ATS in Indonesia. To reduce the supply, the government of Indonesia has deployed more resources to prevent ATS smuggling into the country's territory. However, it will not necessarily reduce the demand of ATS. Indonesia must adopt health-based interventions to reduce the demand, such as by providing appropriate and evidence-based treatment and harm reduction services. These interventions must be supported by the creation of enabling environment, where ATS users are encouraged to access treatment without fear of being criminalised.

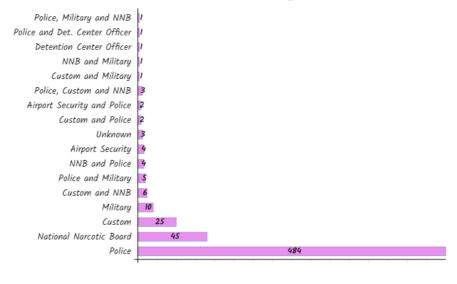
Third, it is obvious that many journalists donot have adequate knowledge and understanding on what is defined as narcotic drugs. As shown on the table, some of the so-called narcotic drugs do not fall into the category of narcotic drugs as defined under Law Number 35/2009 on Narcotic Drugs. Instead, these drugs are regulated under Law Number 36/2009 on Health. The first consequence is that these drugs are legal, although their misuse might carrya penalty. Therefore, labeling these drugs as narcotic drugs might cause misunderstanding in the society. It might trigger unnecessary and mistaken fear over some types of drugs that are legal and beneficial for treating particular diseases. The second consequence is that the law enforcement agency responsible to deal with such offences is the Indonesian National Police (INP), not the National Narcotic Board.

The journalists' lack of understanding on drugs is apparent in their use of the drug trademark instead of the substances within. This practice must be changed immediately as it may deceive the effort to control the substances. Avoidance of some particular trademarks claimed to be containing drug substances does not necessarily mean that there will not be other trademarks that use the same substances.

Law Enforcement

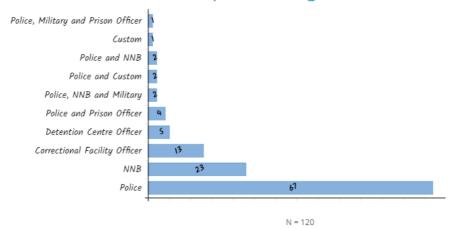
In its 2016 annual report press release, the National Narcotic Board claims to have had confiscated 1,016,198.95 grams of crystal methamphetamine. This amount is only a quarter of the amount of crystal methamphetamine confiscated based on our monitoring. The differences might be caused by the mistake on the amount published on online media. However, we believe that the difference lies predominantly on the fact that the law enforcement of many of large-scale drug bust and drug dealing in or from prison cases are not monopolized by the National Narcotic Board. As seen on the table below, the management of large-scale drug bust and drug dealing in or from prison cases is dominated by the Indonesia National Police (INP), both by itself, or, in a very minimum number, in collaboration with other law enforcement agencies.

Authorities Involved in Large-Scale Bust



N = 598

Authorities Which Expose Dealing from Prison



The INP's domination does not mean that they do their job better than the NNB does. It requires many more variables to evaluate the effectiveness and quality of each agencies' performance. For us, this information indicates a good

relationship between the INP and journalists in communicating these cases to the public.

With regard to the issue of law enforcement agencies, LBH Masyarakat questions the involvement, both acting alone or in collaboration with other agencies, of the Indonesia Military Service in both large-scale drug bust and drug dealing in or from prison cases. The Military Service is mandated to defend the nation in the context of military action. Although the Military Service might be involved in criminal cases like this as per other agencies' request, its involvement must have justifications. Some parliament members have also raised their concern and criticism over the unnecessary involvement of the Military Service in the name of war on drugs. VII Although it is also important to note that, often times, the involvement of the Indonesian Military Service is requested by the law enforcement agencies as part of the war on drugs campaign.viii

LBH Masyarakat believes that both the NNB and the INP have the resources in place to overcome illicit drug trafficking. However, we also believe that the criminalisation approach as currently applied is an ineffective yet costly approach that needs to be reformed.

CLOSING REMARK

From the media monitoring on large-scale drug bust and drug dealing in or from prison, we conclude the following points:

- Despite the harsh punishment and the execution of the drug offenders aiming to cause deterrent effect, the monitoring found that drug bust and drug dealing in or from prison case are still happening in a large scale. Throughout 2016, there were attempts to traffic more than 4,200,000 grams of crystal methamphetamine, 5,700,000 grams of cannabis, and 480,000 ecstasy pills. This shows the lack of the deterrent effect and the effectiveness of the approach currently implemented.
- 2. Bearing in mind the high number of drug distribution to, from, and/or within the prison, there clearly is an urgent need to improve the performance of the Directorate General of Correctional Facilities in order to ensure the quality of security of the prison system.
- There is an early indication of increasing vulnerability of women and children in drug trafficking. However, it requires a more in-depth research to support this finding.
- Crystal methamphetamine is the most popular type of drugs trafficked based on our findings, evident in 431 large-scale drug bust cases and 86 drug dealing in or from prison cases. Cannabis and ecstasy come second and third on the list. We also note that there is a misunderstanding on the type of drugs categorised as narcotics, such as Double L pill.
- 5. As for the main actor, we find that the INP is the dominant actor in prosecuting these cases. Almost 84% of the large-scale drug bust cases and two third of the drug dealing in or from prison cases are handled by the INP. We also note the involvement of the Indonesian Military Service in some cases, of which we believe that the said involvement is inappropriate, unnecessary, and need to be discontinued.

Finally, LBH Masyarakat hopes that this documentation could trigger further discussion on the effectiveness of Indonesian war on drugs. The punitive approach must be reformed and execution of death penalty for drug offences must be stopped.

END NOTES

i"BNN: Eksekusi Mati Tak Buat Jera Penyuplai Narkotik", 25 Maret 2017, CNNIndonesia.com, http://www.cnnindonesia.com/nasional/20170325203154-12-202756/bnn-eksekusi-mati-tak-buat-jera-penyuplai-narkotik/

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