

# POLICY PAPER

## MAINSTREAMING HARM REDUCTION IN DRUGS POLICY IN INDONESIA





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LBH Masyarakat  
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**Policy Paper**  
**MAINSTREAMING HARM REDUCTION IN DRUGS POLICY IN INDONESIA**

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# BACKGROUND

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Indonesia continues to adopt a punitive approach framed by a *war on drugs* narrative. This stance was prominently reinforced in 2015 by former President Joko Widodo,<sup>1</sup> who declared a national commitment to combating narcotics. Law enforcement agencies have since implemented this directive through widespread arrests and severe penalties, aiming to create a deterrent effect and reduce drug-related crimes. However, nearly a decade into this approach, Indonesia has yet to achieve the envisioned goal of becoming narcotics-free. Instead, structural challenges have emerged, including the infringement of fundamental human rights, particularly when state power intersects with the criminal justice system.

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<sup>1</sup> President Joko Widodo's remarks at the opening of the National Drug Handling Meeting, February 4, 2015 at the Bidakara Hotel, South Jakarta, (Speech Transcript: Public Relations of the Indonesian Cabinet Secretariat). See at: <https://setkab.go.id/en/sambutan-presiden-joko-widodo-pada-pembukaan-rakornas-penanganan-narkoba-4-februari-2015-pukul-di-hotel-bidakara-jakarta-selatan/>

The punitive approach relies heavily on sanctions, emphasizing harsher penalties<sup>2</sup> and expanded penal facilities as a means of reducing narcotic-related crimes. This paradigm is reflected in both the regulatory framework and the handling of narcotics cases. At the regulatory level, Law Number 35 of 2009 on Narcotics (Narcotics Law) remains in force, containing criminal provisions that blur the distinction between “users” and “dealers.” This legal ambiguity obstructs access to medical and social rehabilitation services despite such provisions being outlined in the law. The situation is further compounded by law enforcement practices that use the “war on drugs” narrative to legitimize the violation of basic rights, particularly for individuals accused of narcotics offenses. According to 2023 data collected by LBHM from detainees in Jakarta detention centers, 35 out of 223 prisoners reported experiencing torture, 24 of whom were involved in narcotics cases. Additionally, 19 prisoners reported instances of extortion, with 9 cases linked to narcotics offenses.

The government’s criminal approach to narcotics has significantly contributed to the overcrowding crisis in correctional facilities. According to the data from the Directorate General of Corrections on 2022, at least 109,065 convicts and 21,477 detainees were involved in narcotics cases. Of these, 83,660 were classified as distributors and 46,882 as users<sup>3</sup>. By June 12, 2023, Indonesia’s correctional facilities had a capacity of 140,424 people but were housing 269,263 individuals—over half of whom were incarcerated for narcotics-related offenses<sup>4</sup>. This severe overcrowding highlights the ineffectiveness of the punitive model in reducing narcotics crimes and underscores the urgent need for alternative, rehabilitative solutions.

The punitive approach and the ongoing “war on drugs” have drawn significant criticism from the international community, prompting calls for policy reform worldwide. In March 2023, the *High Commissioner of the Commission on Narcotic Drugs* highlighted the failure of this decades-long strategy to curb the production and consumption of narcotic substances. Instead, it has negatively

2 Ricky Gunawan, et al, Mendorong Kebijakan Non-Pemidanaan bagi Pengguna Narkotika: Perbaikan Tata Kelola Narkotika Indonesia, (Jakarta: Institute for Criminal Justice Reform, 2021), p 11.

3 Number of Narcotics Inmates in the Period 2018 - 2022, (SDP: Directorate General of Corrections). See at: <https://sdppublik.ditjenpas.go.id/infografis/jumlah-penghuni-narkotika-pada-kurun-waktu-tahun-2018-2022>

4 Ady Thea DA, Penataan Regulasi Cara Pemerintah Membenahi Overcrowded Rutan dan Lapas, [hukumonline.com](https://www.hukumonline.com), June 2023. See at: <https://www.hukumonline.com/berita/a/penataan-regulasi-cara-pemerintah-membenahi-overcrowded-rutan-dan-lapas-lt648948a46a507/#>



impacted public health and reinforced discriminatory practices, particularly against vulnerable groups such as women, transwomen, and individuals with diverse gender identities who use narcotics. A rapid assessment conducted by the Suar Perempuan Lingkar Narcotics Nusantara Foundation (SPINN) in late 2023 revealed that 41% of women and transwomen who use narcotics have faced legal entanglements, and 24% have experienced physical, psychological, or economic violence during the legal process.<sup>5</sup> These findings underscore the urgent need for a systemic transformation in Indonesia’s approach to people who use drugs, especially women, and transwomen, who remain disproportionately vulnerable and marginalized.

Therefore, the “war on drugs” must end, shifting the focus toward transformative change—developing gender-sensitive, evidence-based narcotics policies that prioritize human rights.<sup>6</sup> The United Nations Human Rights Council has echoed this sentiment, emphasizing the need to move away from punitive sentencing models to address the human rights challenges exacerbated by such drug control policies. Narcotic policies should be viewed as a means to achieve broader objectives, including the protection of fundamental rights—particularly the rights to health, equality, and non-discrimination<sup>7</sup>

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5 SPINN, Suara Puan: Untuk Kebijakan Narkotika yang Lebih Memihak Perempuan di Indonesia, Yayasan Suar Perempuan Lingkar Napza Nusantara, 2023. See at: <https://womxnsvoice.org/data-dan-laporan/>

6 Drug policies: High Commissioner calls for transformative changes, March 2023. See di: <https://www.ohchr.org/en/statements-and-speeches/2023/03/drug-policies-high-commissioner-calls-transformative-changes>

7 Human Rights Council, Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem, Report of the Office of the United Nations High Commissioner for Human Rights, (United Nations: 2023), Paragraph 67.



# HARM REDUCTION AS A KEY APPROACH IN NARCOTICS POLICY

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As highlighted earlier, narcotics policy must be grounded in the principles of respecting, fulfilling, and protecting human rights, particularly the right to health. International legal frameworks affirm that everyone is entitled to an adequate standard of living and the highest attainable level of physical and mental well-being, ensuring well-being for themselves and their families. Consequently, states are obligated to provide inclusive, non-discriminatory health services encompassing prevention, diagnosis, treatment, rehabilitation, and oversight. This obligation is enshrined in Article 25 of the Universal Declaration of Human Rights and Article 12 of the International Covenant on Economic, Social, and Cultural Rights, ratified by Indonesia through Law Number 11 of 2005. Similarly, Articles 28H and 34 of Indonesia's Constitution mandate the state to uphold the right to public health for all, without exception.

The health approach in narcotics policy refers to harm reduction strategies aimed at supporting individuals or groups who use narcotics. However, harm reduction extends beyond health interventions. It encompasses policies, programs, and practices designed to mitigate the negative health, social, and legal impacts associated with narcotics use. Grounded in principles of justice and human rights, this approach emphasizes positive change within a system that avoids judgment, coercion, or discrimination. Importantly, it does not

require individuals to cease narcotics use as a condition for receiving support, ensuring accessible, non-conditional assistance for all.<sup>8</sup>

This treatment model aims to prevent the spread of infectious diseases, particularly among people who inject narcotics (*pengguna narkoba suntik-penasun*), a population at high risk of contracting Human Immunodeficiency Virus (HIV) due to the shared use of non-sterile syringes. Additionally, integrating harm reduction into narcotics control seeks to minimize narcotics use and dependence, thereby reducing risks such as overdose-related deaths and other narcotics-related harms.<sup>9</sup> Effective care must be tailored to the specific needs of each individual, emphasizing the importance of needs-based services to ensure that interventions are both appropriate and effective.

Few government entities seriously address the importance of harm reduction for people who use drugs. This is largely because discussions about narcotics are often dominated by a law enforcement perspective, with a primary focus on the criminal justice system rather than public health or social support approaches.

Therefore, the involvement of the Ministry of Health (MoH Indonesia) and the Ministry of Social Affairs (MoSA Indonesia) in the recovery process for people who use narcotics is a crucial step that needs to be strengthened. This can be achieved by optimizing policies and programs rooted in harm reduction principles, ensuring a more comprehensive and supportive approach to addressing their needs.

Since 2005, the MoH has been actively involved in HIV/AIDS control efforts, particularly addressing the issue of non-sterile syringe use. Between 1995 and March 2005, the prevalence of non-sterile syringe use increased more than fifty-fold, rising from 0.65% in 1995 to 35.87% in 2004.<sup>10</sup> By early 2005, between January and March, the number of individuals using non-sterile

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8 Harm Reduction International, What is Harm Reduction? See at: <https://hri.global/what-is-harm-reduction/>

9 George Havenhand, Reorientasi Kebijakan Narkotika di Indonesia: Jalan Setapak Menuju Tujuan Pembangunan Berkelanjutan, (Jakarta: LBH Masyarakat, 2020) p.14.

10 Decree of the Minister of Health of the Republic of Indonesia No. 567/MENKES/SK/VIII/2006 concerning Guidelines for the Implementation of Harm Reduction of Narcotics, Psychotropics, and Addictive Substances (NARCO), pp. 4-5

syringes surged further, reaching 59.27%.<sup>11</sup> In response to this alarming trend, the MoH shifted its focus to harm reduction strategies. This commitment is evident in the various policies and programs it has implemented to reduce harms and promote rehabilitation.<sup>12</sup> These efforts have successfully decreased HIV transmission among those most at risk. Over the past three years, the percentage of people living with HIV due to syringe use has remained below 1% of the total population, with rates of 0.6%<sup>13</sup> in 2021, 0.5%<sup>14</sup> in 2022, and 1%<sup>15</sup> in 2023. While these numbers fluctuate, the overall decline compared to the risk figures from 1995 to 2005 demonstrates a significant reduction.

Recently, the MoSA Indonesia has become increasingly active in advocating harm reduction for people who use narcotics. One of the key points raised is the need to shift the approach to narcotics use, viewing it as a public health issue rather than a criminal offense.<sup>16</sup> Social rehabilitation, including dependency recovery services, is considered a more effective policy for individuals who are not involved in violent crimes.<sup>17</sup> According to data from BNN and the UI Health Center in 2019, from 2015 to 2019, 82,952 people who use drugs out of an estimated 3.6 million people<sup>18</sup> received social rehabilitation services from the MoSA. This progress led MoSA to develop the '*Pedoman Operasional Pelaksana ATENSI bagi Korban Penyalahgunaan NAPZA*' (Operational Guidelines for the Implementation of ATENSI for Drug Abuse Victims).<sup>19</sup> However, three years later, the implementation of this initiative appears to have stalled, with little visible progress or activity in this area.

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11 Ibid., p. 5

12 M. Suharni, *Pendekatan Penanggulangan Permasalahan Narkotika dan Kebijakan Harm Reduction*, (Article: Kebijakan Aids Indonesia), 2015.

At least there are 12 regulations documented until 2014, and after that year there are several more regulations that appeared.

<https://kebijakanidsindonesia.net/id/artikel/artikel-tematik/1102-pendekatan-penanggulangan-permasalahan-narkotika-dan-kebijakan-harm-reduction>

13 Executive Report: Development of HIV AIDS and Sexually Transmitted Diseases (PIMS) Quarter IV of 2021, Ministry of Health.

14 Executive Report: Development of HIV AIDS and Sexually Transmitted Infections (PIMS) Quarter IV of 2022, Ministry of Health.

15 Executive Report: Development of HIV AIDS and Sexually Transmitted Infections (PIMS) Quarter IV of 2023, Ministry of Health.

16 OHH Directorate General of Social Rehabilitation, Ministry of Social Affairs Prioritizes Efforts toward Harm Reduction for Drug Abuse Victims, November 2020. See in <https://kemensos.go.id/kemensos-kedepankan-upaya-pengurangan-dampak-buruk-bagi-korban-penyalahgunaan-napza>

17 Ibid

18 OHH Directorate General of Social Rehabilitation, Expand Service Coverage, Ministry of Social Affairs Compiles Operational Guidelines for Drug Addiction, September 2020. See at: <https://kemensos.go.id/perluas-jangkauan-layanan-kemensos-susun-pedoman-operasional-atensi-napza>

19 You can download the Operational Guidelines for Social Rehabilitation Assistance for Drug Abuse Victims via the following link: <https://kemensos.go.id/pedoman-operasional-asistensi-rehabilitasi-sosial-korban-penyalahgunaan-napza>

In addition to concerns about the effectiveness of the MoSA's guidelines, significant criticisms need to be addressed. One of the main issues is the MoSA's failure to involve the people who use drugs community in the social rehabilitation process.<sup>20</sup> This oversight is particularly unfortunate, as people who use narcotics often face stigma and traumatic experiences in society, leading them to isolate themselves.<sup>21</sup> Therefore, the active involvement of the people who use drugs community in harm reduction efforts is crucial. Unfortunately, this is frequently overlooked in government policies and programs, resulting in initiatives that do not fully align with the actual needs of the beneficiaries, namely, the people who use narcotics.

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20 Chapter IV on the Implementation of Social Rehabilitation Assistance, part F. KPN Social Rehabilitation Assistant. That those involved in this process are only social workers in collaboration with addiction counselors, social welfare workers, doctors, therapists, instructors, nurses, psychologists, social volunteers, social extension workers, and/or other professionals.

21 Rima Ameilia, Kiki Marini Situmorang, and Nuraida, *Perspektif Keagamaan terhadap Pengguna Narkotika dan Layanan Pengurangan Dampak Buruk Narkotika di Indonesia*, (Jakarta: LBH Masyarakat, 2023), pp. 39 - 40. – That as many as 71% of respondents closed themselves off and found it difficult to tell others about their personal condition.







# CRITICISM ON HARM REDUCTION POLICIES IN INDONESIA

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Since the enactment of Law Number 35 of 2009 on Narcotics (Narcotics Law), the Indonesian government has introduced a series of regulations aimed towards harm reductions for people who use narcotics. While the number of regulations has increased, the real challenge lies in their implementation and the actual impact on the targeted communities. These regulations must be continuously updated to better align with current needs and conditions. The critical question now is: How effective are these policies in reducing harm for people who use narcotics in Indonesia today? Do they truly address the needs of the individuals they intend to support? These are some of the key areas that need collective reflection and evaluation to improve the effectiveness of these policies.

## **a. Harm Reduction Policies That Don't Follow the Trend**

It is important to acknowledge that most of the harm reduction interventions currently implemented in Indonesia, as well as globally, are primarily integrated into efforts to prevent HIV, Hepatitis C, sexually transmitted infections (STIs), and other infectious diseases. One of the main objectives of these programs is to address the use of narcotics with non-sterile syringes through initiatives

like sterile syringe exchange programs, HIV testing, and treatment.<sup>22</sup> These strategies have proven effective in reducing the prevalence of HIV/AIDS among people who inject drugs.<sup>23</sup> However, the harm reduction policy in Indonesia remains overly focused on these specific health issues, with a narrow scope that currently benefits a small proportion of the population—just 1.5%, according to data from the National Narcotics Agency of the Republic of Indonesia (BNN RI).<sup>24</sup>

Over time, the trend of narcotics use in Indonesia has shifted. The use of injectable opioids, such as heroin, is gradually declining, while non-injection methods and different types of narcotics are becoming more prevalent. This shift is reflected in data from the National Narcotics Agency (BNN), which shows that marijuana is now the most widely used substance, accounting for 41.4% of cases. It is followed by methamphetamine (25.7%), N-isopropyl acetamide (11.8%), and dextro (6.4%).<sup>25</sup>

A similar situation can also be seen from the data that LBHM collects through legal counseling activities in 3 (three) detention centers in the DKI Jakarta area. In 2021, of the 198 counseling participants, 156 were involved in narcotics cases with methamphetamine evidence and 23 with marijuana.<sup>26</sup> This trend continued in 2022, with 275 detainees (212 related to methamphetamine, 31 to marijuana),<sup>27</sup> and in 2023, of 285 participants, 211 related to methamphetamine and 37 to marijuana.<sup>28</sup> These data are not yet available in disaggregated or disaggregated data, i.e., data that has been broken down by detailed subcategories, such as by marginalized groups, gender, region, or education.<sup>29</sup> There has never even been disaggregated data that can reveal gender diversity, shortcomings, and inequalities.

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22 Rafaela Rigoni, Joost Breeksema, Sara Woods, *Speed Limits: Harm Reduction for People Who Use Stimulants*, (Mainline: Netherland), p. 10

23 Yohanes Gentar, *Timah Panas Di Tengah Kegagalan Harm Reduction*, PPH Unika Atma Jaya, 2020. See at: <https://pph.atmajaya.ac.id/publikasi/timah-panas-di-tengah-kegagalan-harm-reduction/> and see also *The Global State of Harm Reduction*, (Harm Reduction International: 9th Edition) [https://hri.global/flagship-research/the-global-state-of-harm-reduction-2024/](https://hri.global/flagship-research/the-global-state-of-harm-reduction/the-global-state-of-harm-reduction-2024/)

24 *Indonesia Drugs Report*, (Jakarta Timur: Pusat Penelitian, Data, dan Informasi Badan Narkotika Nasional), 2022, p. 7

25 *Indonesia Drugs Report 2022*, Op.Cit.

26 LBHM Extension Data in 2021

27 LBHM Extension Data in 2022

28 LBHM Extension Data in in 2023

29 Disaggregated Data Glossary. See in: <https://www.right-to-education.org/monitoring/content/glossary-disaggregated-data>

From these data, it can be concluded that the trend of narcotics use in Indonesia has shifted from injectable to non-injectable substances. Unfortunately, some government policies have not kept pace with this changing trend. A key example is the MoH's policy on harm reduction. Initially, through Ministry of Health Regulation No. 567/Menkes/SK/VII/2006 concerning Guidelines for the Implementation of Harm Reduction Programs for Narcotics, Psychotropic, and Addictive Substances, the focus was primarily on HIV control. This is evident in the program's scope, which emphasizes reducing the risk of HIV transmission within the drug-using population. While subsequent regulations have made some improvements, the core focus has remained on managing the harm from injectable substances, neglecting the broader range of narcotics and methods of consumption now prevalent.

Sixteen years have passed, marked by various developments, and in 2022, the Ministry of Health issued a new regulation, Permenkes Number 23 of 2022, concerning the Management of Human Immunodeficiency Virus (HIV), Acquired Immunodeficiency Syndrome (AIDS), and the Prevention of Sexually Transmitted Infections (STIs).<sup>30</sup> However, despite these advancements, the new regulation still predominantly emphasizes harm reduction for people who use injectable drug, offering specific services for them. Unfortunately, it does not yet extend its focus to non-injecting people who use drugs, highlighting a gap in the policy that needs to be addressed to better align with the evolving trends in drug use.<sup>31</sup>

These conditions create service gaps for individuals who inhale, smoke, or ingest substances. This underscores the critical need for the state's involvement to ensure that access to harm reduction and mitigation services is equally available to non-injecting people who use drugs.

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30 This regulation repeals Permenkes Regulation No. 55 of 2015 concerning Harm Reduction on People who Use Injection Drugs

31 Section Eight: Drugs Harm Reduction Chapter 16

## b. Barriers to Harm Reduction Behind Punitive Policies

Access to health-based interventions is hindered by discriminatory practices that threaten people who use drugs. Articles 111 and 112 of the Narcotics Law, which criminalizes possession and use, and Article 114, which addresses offenses related to the sale and purchase of narcotics, serve as tools for law enforcement to justify incarcerating people who use narcotics.

Rehabilitation schemes integrated into the criminal justice system are unable to meet the need for health interventions that align with human rights standards. As previously mentioned, health-based interventions, such as harm reduction, must replace punitive measures. The integrated assessment mechanism<sup>32</sup> for individuals facing narcotics-related cases should not be solely under the authority of law enforcement officials.<sup>33</sup> Additionally, the outcomes of non-binding assessments and recommendations<sup>34</sup> highlight the shortcomings of the current health-based intervention system under the Narcotics Law and its derivative regulations.

The punitive mindset held by policymakers and law enforcement officials is a significant barrier preventing people who use drugs from accessing harm reduction services. This is further reinforced by the ongoing glorification of the “war on drugs” narrative, which continues to be promoted by the Indonesian government. Rather than fostering a constructive approach, these narrative fuels stigma and discrimination against people who use narcotics, perpetuating negative perceptions.<sup>35</sup> Studies and monitoring conducted by LBHM reveal that framing narcotics as illegal substances that harm the nation’s youth diminishes the human rights of people who use narcotics,<sup>36</sup> limiting their access to necessary support and care.

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32 It is regulated in the Regulation of the Head of the National Narcotics Agency Number 11 of 2014 concerning Procedures for Handling Suspects and/or Defendants of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions (Perka BNN Number 11 of 2014).

33 Based on Article 8 paragraph (3) jo. Article 12 paragraph (2) letter a of Perka BNN Number 11 of 2014, the integrated assessment is carried out based on a request from the investigator to the Integrated Assessment Team (TAT). There is no provision that gives the TAT the right or authority to proactively intervene (ensure the need for harm reduction services) in legal proceedings in narcotics cases.

34 The provisions in Article 127 jo. 103 of the Narcotics Law give judges the option to determine the type of punishment for people who use drugs, in the form of imprisonment for a certain time and/or medical-social rehabilitation.

35 Rima Amelia, Op.Cit.

36 Novia Puspitasari, REACHING FOR THE SKY WHILE SCRATCHING THE BACK Media Monitoring and Documentation Report on People Living with HIV and Key Populations 2021-2022, (Jakarta: LBH Masyarakat, 2023).

The UN Human Rights Council's Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health has emphasized that the punitive approach to drugs use perpetuates stigma and prevents people who use drugs, especially women, from accessing vital health services. Women who use narcotics are particularly vulnerable to stigma and social discrimination. Unfortunately, harm reduction services are often designed without a gender-sensitive perspective. This underscores the importance of integrating harm reduction strategies with services addressing gender-based violence and sexual and reproductive health. A shift toward voluntary treatment options is essential, as it offers the most effective means of reducing harm of drug use and the negative social consequences associated with punitive approaches.<sup>37</sup>

### **c. Case Reflection; The Iceberg Phenomenon Behind Punitive Rehabilitation Practices**

The long-standing approach to combating narcotics has clearly failed to achieve the goal of a narcotics-free world. Despite strict regulations and harsh criminal penalties, the number of people who use drugs has remained steady or even increased. The punitive narcotics control regime has only exacerbated the dangers associated with drug use, relying on ineffective methods, misdirected solutions, and neglecting evidence-based approaches like harm reduction.<sup>38</sup>

This is evident from LBHM's experience of providing legal aid to people who use drugs. People who use drugs are often seen as commodities for law enforcement officers who offer, and even forcibly place, them in rehabilitation institutions when arrested by law enforcement officers. Unfortunately, these offers do not come for free. Unclear procedures and assessments, as well as high costs, put them in a desperate position. Moreover, the treatment and rehabilitation programs in them are not adequately provided. On the contrary,

37 United Nations, Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, A/HRC/56/52, <https://documents.un.org/doc/undoc/gen/g24/069/12/pdf/g2406912.pdf>

38 United Nations, Report of The Special Rapporteur on The Right of Everyone to The Enjoyment of the Highest Attainable Standard of Physical and Mental Health. A/65/255, <https://documents.un.org/doc/undoc/gen/n10/477/91/pdf/n1047791.pdf>

the practice of torture and ill-treatment continues to occur in Indonesia. These actions violate human rights, especially in detention centers and in places that cannot be openly accessed.<sup>39</sup>

The concept and practice of rehabilitation offered by the current drug policy regime differs from harm reduction programs based on the right to health. As mentioned earlier, harm reduction policies are not seen as limited to the provision of health services. Rather, they are based on the values of justice and human rights. Compulsory rehabilitation, as it is currently practiced, whether under state or private authority, is close to and associated with the criminal justice system. This punitive style will not achieve the goals of harm reduction or recovery for people who use drugs. Instead, it perpetuates the record of stigma, discrimination, and criminalization experienced by people who use drugs.

One of the phenomena of exploitation, extortion, and human rights violations that occur in institutions that are subject to rehabilitation programs was revealed in a case involving the Regent of Langkat in early 2022. The investigation conducted by the Corruption Eradication Commission (KPK) revealed that there was a human cage at the residence of Terbit Rencana Perangin-Angin. He claimed the cell was a rehabilitation center for groups of people who used drugs. At least 40 people were behind the bars of the cell, and they claimed to have been forced to work for the former Langkat Regent.<sup>40</sup>

The practice of dehumanizing treatment, as in the above cases, is an iceberg phenomenon that occurs in closed spaces and is even facilitated by state power and law enforcement officials. In fact, the Working Group on Arbitrary Detention of the UN Human Rights Council has issued a strong recommendation to all countries to immediately close down compulsory rehabilitation institutions,

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39 Komnas HAM, Praktik Penyiksaan Bertentangan dengan Amanat Konstitusi. See at <https://www.komnasham.go.id/index.php/news/2021/11/3/1971/komnas-ham-praktik-penyiksaan-bertentangan-dengan-amanat-konstitusi.html>

40 Elza Astari Retaduari, Kronologi Terbongkarnya Kerangkeng Manusia Bupati Langkat: Berawal dari OTT KPK hingga Sudah Berdiri 10 Tahun, Kompas.com, 2022. <https://nasional.kompas.com/read/2022/01/25/21340541/kronologi-terbongkarnya-kerangkeng-manusia-bupati-langkat-berawal-dari-ott?page=all>

both state and private, that detain people who use drugs against their will.<sup>41</sup> The Indonesian government should respond to this recommendation by at least evaluating all regulations and implementation of the provision of rehabilitation services, both public and private. Effective complaint mechanisms and interventions need to be implemented to reduce human rights violations that occur under the name of rehabilitation and harm reduction.

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<sup>41</sup> Human Rights Council, Study of the Working Group on Arbitrary Detention, Human Rights Council, Arbitrary Detention Relating to Drugs Policies. See at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/109/65/PDF/G2110965.pdf?OpenElement>





# HARM REDUCTION POLICIES THAT ARE NOT GENDER RESPONSIVE

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Recent data shows an increase in drug use among women from 0.35% in 2019 to 1.22% in 2021<sup>42</sup>, an increase that represents a health and social security crisis that requires an urgent policy response. This situation is exacerbated by drug policies that are still dominated by a punitive paradigm and fail to address the specific needs of women who use drugs, including trans women and those with other gender identities.

The impact of non-gender responsive policies is increasingly evident as women who use drugs, including trans women and other gender identities, struggle to access the health services they need. This is compounded by the problem of health BPJS that cannot be used by those experiencing health problems resulting from drug and alcohol dependence.<sup>43</sup> Meanwhile, the **Special Rapporteur Right to Health** on *Harm Reduction dan Sustainable Peace and Development A/79/177* reaffirms the right of everyone to enjoy the highest attainable standard of physical and mental health. The report also discusses how harm reduction can be aligned with the right to health and related rights in the context of universal health coverage and with the rights

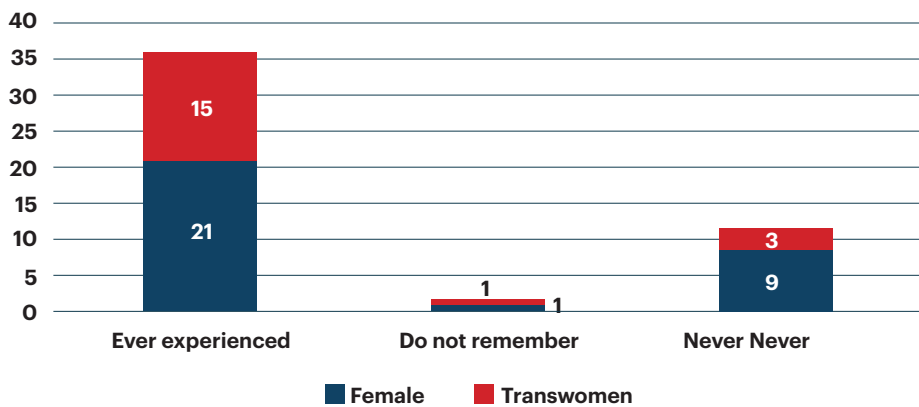
42 Indonesia Drugs Report, Op.Cit.

43 Pengobatan Yang Tidak Ditanggung BPJS, <https://sequis.co.id/id/tentang-sequis/update/article/pengobatan-yang-tak-ditanggung-bpjs>

of those in vulnerable situations, including conflict, health emergencies, and climate change. The report focuses on the best practices around the world and encourages countries to integrate harm reduction as part of universal health coverage plans, incorporating comprehensive services that are accessible, affordable, acceptable, and of high quality.<sup>44</sup>

In addition, in the international context, gender-based violence (GBV) is reportedly higher among women who use drugs<sup>45</sup> and has been extensively documented in a variety of settings, between 5 and 24 times higher than national data estimates of GBV/domestic violence among the general female population<sup>46</sup> as well as stigma and structural violence affecting their vulnerability to HIV.<sup>47</sup> Their identity as women who use drugs increases their vulnerability.

**Experience of being a victim of GBV (Physical Violence)**



44 A/79/177: Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health - Harm reduction for sustainable peace and development, (OHCHR: 18 July 2024) <https://www.ohchr.org/en/documents/thematic-reports/a79177-report-special-rapporteur-right-everyone-enjoyment-highest>

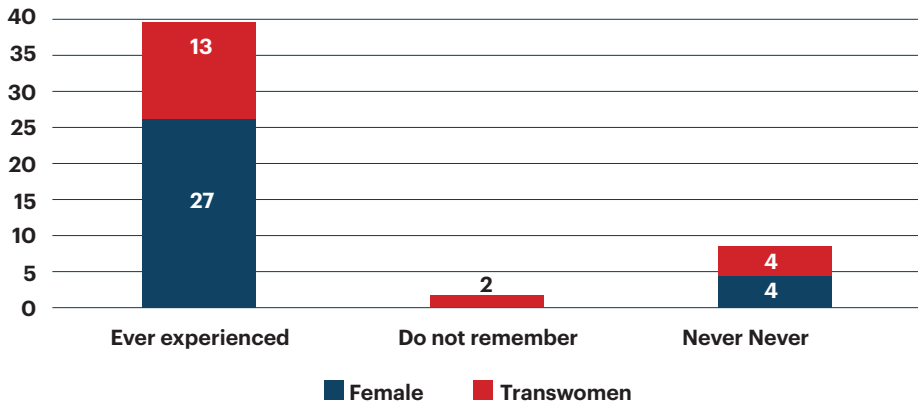
45 UNODC, Women and Drugs: Drug use, drug supply and their consequences, 2018. Austria, p. 16

46 Claudia Stoicescu et al., Nexus of Risk: The Co-occurring Problems of Gender-based Violence, HIV and Drug Use Among Women and Adolescent Girls, 2018. See at: <https://www.emerald.com/insight/content/doi/10.1108/978-1-83982-882-920200008/full/pdf>

47 Shirley-Beavan et.al, Women and barriers to harm reduction services: a literature review and initial findings from a qualitative study in Barcelona, Spain, (Harm Reduction Journal, 2020). See at: <https://harmreductionjournal.biomed-central.com/articles/10.1186/s12954-020-00429-5>

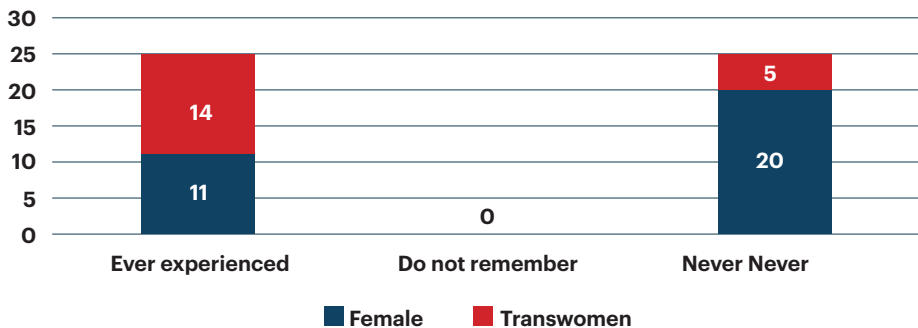
The assessment conducted by SPINN found that 72% of female respondents who use drugs had experienced **physical violence**, with the majority (55%) of perpetrators being men (father, husband, partner, brother, sister, relative, ex-husband). The most common forms of physical violence were being hit, grabbed, and kicked.

**Experience of being a victim of GBV (Psychic/Mental Violence)**

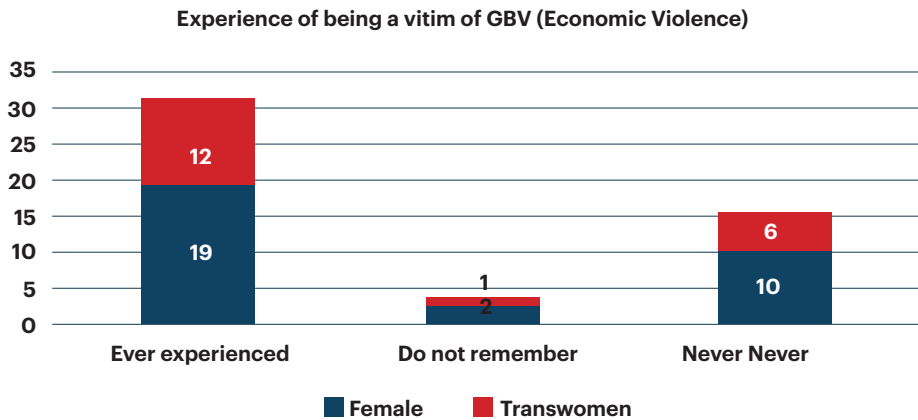


Then 80% of respondents had experienced **psychic/mental violence**, 53% of respondents stated that the perpetrator was male (father, husband, partner, brother, sister, relative) and another 24% of respondents stated that the perpetrator came from an authority figure, for example: boss, teacher, community leader, etc. The forms of treatment included insults, threats, intimidation, discrimination due to HIV status, humiliation, and public shaming.

**Experience of being a victim of GBV (Sexual Violence)**



Some respondents (50%) had experienced **sexual violence**, and almost a third (30%) of the perpetrators were men (father, husband, partner, brother, sister, relative). The form of treatment experienced by respondents was forced sexual intercourse, and some were positioned to have to undergo abortion.



More than half of the respondents (62%) had experienced **economic violence**, with 45% of respondents reporting that the perpetrator was a man (father, husband, partner, brother, sister, relative). The forms of violence experienced included extortion, not receiving financial support from their husbands, not being paid as agreed, or having their income deducted.<sup>48</sup>

From the above data, it is clear that economic limitations and family income leave women who use drugs more vulnerable to domestic violence and vulnerable to sexual exploitation for income. The lack of knowledge about the gender identity of transwomen in the community has led to a lot of violence against transgender people, as they are seen as the cause of many disasters and social problems that occur in the community. There is also no comprehensive reporting mechanism for GBV cases (reporting to recovery) from the national to the local level, so GBV cases that occur against women who use drugs, including trans women and those with other gender identities, cannot be comprehensively addressed according to the needs of the victims.

48 SPINN and PKBI, Asesmen Cepat Situasi dan Kebutuhan Untuk Peningkatan Pelayanan Kesehatan Seksual dan Reproduksi bagi Perempuan Pengguna NAPZA termasuk Transpuan dan dengan Identitas Gender Lainnya, 2024. See at: <https://womxnvoice.org/data-dan-laporan/>

Appropriate harm reduction will enable women and transwomen who use drugs to access health services, stronger social support, and legal assistance without fear of discrimination or criminalization. The following are some of the specific conditions experienced by women and transwomen who use drugs:

## **1. Increased Prevalence and Health Risks among Women who Use Drugs including Transwomen and People with Other Gender Identities**

The prevalence of women who use drugs is rapidly increasing in Indonesia, including transgender and other gender-identified people, who are at high risk of contracting HIV and other infectious diseases. The high frequency of use of different types of drugs, as well as risky methods of use, such as the sharing of unsterilized injection equipment, contribute to serious health risks, including the risk of overdose. The SPINN rapid assessment found that 67% had used more than one type of drug at the same time, with varying frequency. 30% had experienced an overdose (OD) or substance overdose in their lifetime.<sup>49</sup> This should be of particular concern because the findings indicate a lack of access to information and education regarding drug use among this vulnerable group.

## **2. Gender Limited Access to Gender-Responsive Health Services**

Assessment findings show that health services in Indonesia are not responsive to the needs of women who use drugs, including transwomen and people of other gender identities. Lack of access to gender-responsive and non-judgmental mental health, sexual and reproductive health, and psychosocial support services makes it difficult for them to get the necessary help they need. Without adequate access, this group continues to be in a high-risk situation that can lead to further health complications. In fact, access to sexual and reproductive health services and inclusive interventions should be a priority for everyone involved in designing harm reduction programs. For example, in terms of sexual experiences, some have sex while under the influence of drugs. Having sex under the influence of drugs can lead to other risky behaviors, such as unprotected sex. More than half of respondents in SPINN's<sup>50</sup> rapid survey had done so.

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49 SPINN, Op.Cit.

50 SPINN and PKBI, Op.Cit

While health services are available, they are often not inclusive or tailored to the specific needs of women who use drugs, including transwomen and people with other gender identities. From this rapid assessment, it is clear that there is an urgent need to provide health services that are more specific to the needs of women who use drugs, including transwomen and other gender identities, such as sexual and reproductive health counseling, addiction and recovery counseling, anoscopy, hormone therapy counseling, and mental health services. It may also mean that these services require peer workers from both or intersecting communities to ensure safe, convenient access and to build trust with this group.

### **3. Stigma, Discrimination and Violence in Legal Processes**

Within the legal system, women and transwomen who use drugs often experience discriminatory treatment and violence, with only 17% receiving legal assistance based on the rapid assessment results.<sup>51</sup> Another finding from the rapid assessment was that 24% had experienced violence during the legal process, namely in the form of physical, psychological, sexual, and economic violence by officers through requests for a sum of money between 3 million and 50 million for the leniency of charges or immediate release.<sup>52</sup> This repressive and biased legal approach hinders their recovery efforts and prevents them from accessing safe and convenient services.

### **4. The Need for Urgent and Comprehensive Harm Reduction Services**

Communities of women who use drugs, including transgender and other gender-identified people, are in need of harm reduction services that include mobile clinics, HIV and STI testing, mental health support, and sexual and reproductive health. Safe and inclusive, child-friendly shelters with counseling services and support groups. Protection from gender-based violence is also an urgent need for this group.

Inclusive harm reduction programs for this group are difficult to achieve due to a lack of gender and age disaggregated data, with women who use drugs, including transwomen and people of other gender identities, often missing from the HIV population and prevalence estimates. Stigmatization

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51 SPINN, Op.Cit.

52 Ibid.

of drug use - by health workers and others - often includes narratives that blame women who use drugs for not conforming to motherhood. This stigma affects women who use drugs who are pregnant.

Unplanned or unrecognized pregnancies are often experienced by women who use drugs (e.g. women with opioid/heroin dependence may experience irregular menstrual cycles, so they may think they cannot get pregnant). This often causes women who use opioids/heroin to delay pregnancy testing. Fear of stigma, hostility from healthcare workers, and violence often discourage women who use drugs from accessing family planning services. This often leads to coercion in the use of long-acting or permanent contraceptives such as implants and sterilization, in order to prevent women who use drugs from becoming pregnant. The needs of women who use drugs, including transwomen and people with other gender identities, need to be integrated into national strategic plans for topics such as HIV, Sexual and Reproductive Health and Rights (SRHR), and GBV.





# THE REAL NEEDS OF GENDER-RESPONSIVE COMMUNITY OF PEOPLE WHO USE DRUGS

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Most harm reduction programs have not fully accommodated the needs of women who use drugs including transwomen and other gender identities, particularly in terms of sexual and reproductive health, support for the trauma of gender-based violence, and access to safe and comfortable health facilities. Stigma and discrimination based on drug use and the impact of imprisonment experienced by women who use drugs, including transwomen and other gender identities, limit their access to health and social services, and reinforce other forms of gender-based stigma. Drug policies that exclude people who use drugs from access to employment, housing, education, welfare, and mental health care make it very difficult for women who use drugs, including transwomen and other gender identities, to improve their health and lives.

Based on what has been described above, the real needs of the community of women who use drugs and other gender identities are clearly illustrated as follows:

## **1. Adequate Health and Psychosocial Access**

They need mental health services, sexual and reproductive health support, as well as access to gender-affirming health services. This includes the provision of condoms and lubricants, HIV self-testing kits, counseling using multiple protection strategies to prevent transmission of HIV, STIs, and Hepatitis C, and unplanned pregnancies and other psychosocial services to support their recovery without stigma and discrimination.

## **2. Inclusive Shelter and Legal Support**

The government should increase funding and support to temporary shelters to increase their capacity and accessibility to all women and gender-diverse people, including those who use drugs. Shelter policies should be developed in line with the realities of drug use and centered on the principles of harm reduction and removing barriers for all women and gender-diverse people, including those who use drugs. Review and evaluation mechanisms should also be established to ensure that shelters meet these policies. Safe shelters with a harm reduction approach that provides counseling, support groups, and legal assistance are essential. Shelters should also offer protection from gender-based violence, as well as legal support when dealing with drug cases, and ensure service provision has an integrated referral pathway that is client-centered and non-judgemental.

## **3. Community-based Education and Empowerment**

Education on risk reduction, the rights of people who use drugs, and sexual and reproductive health should be provided so that they can fully understand their rights. Increased knowledge and education on GBV for community members is also needed so that they can gain a good understanding of GBV and know how to avoid it and report it for comprehensive treatment. Involvement of women who use drugs, including transwomen and people with other gender identities, in the design, implementation, monitoring, and evaluation of services and interventions should be an essential part of policy and practice to meet the needs of this group.

In terms of harm reduction services, women who use drugs, including transwomen and people of other gender identities, should also be meaningfully involved in service delivery and interventions as Managers, Outreach Workers, Counselors, Researchers, etc., through appropriate and adequate training, remuneration, development and support. These appointments in harm reduction programs cannot be made simply to meet gender equality requirements. Full involvement of this group can create an inclusive environment for them to voice their rights. In advocacy work, women who use drugs, including transwomen and those with other gender

identities, should be supported and empowered to raise their voices and represent their communities at all levels.

#### **4. Rights and Health Oriented Policies**

Policy support that shifts from a criminalization approach to a public health approach is needed. Decriminalization of possession of small amounts of drugs, as well as full recognition of human rights, are important steps towards enabling this community to access services without fear of stigma or legal action. Drug policy and the implementation of drug policy projects should be designed in a gender-responsive way; this means taking into account the unique needs of women in all their diversity, valuing their perspectives, and respecting their experiences. Integrating a gender perspective can be achieved consistently by taking into account the different realities of women's and men's lives, interests and needs, and gender-related inequalities. The aim is to achieve long-term gender justice, especially for women who use drugs, including transwomen and people of other gender identities.

Accurate and non-judgmental guidance on preventing HIV through sex and drug use, including safe injecting, should be available. This includes Sterile Injecting Equipment Services (SIS) as well as Opioid/Heroin Substitution Therapy Programs and other options such as Post Exposure Prophylaxis (PEP); access to male and female condoms and lubricants, including information on how to use them correctly; and skills training to negotiate condom use, as well as SIS for hormonal therapy for transgender people.

#### **5. Increasing Community Awareness and Concern**

Increasing public awareness and concern about the issue of women who use drugs, including transwomen and those with other gender identities, is needed to eliminate stigma and discrimination through various campaigns, providing continuous education and information, and building comprehensive cross-sector alliances to provide assistance or handling cases of drugs and GBV that occur in the community.



# CONCLUSIONS AND RECOMMENDATIONS

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Drug policies that still prioritize a punitive approach have clearly not succeeded in achieving the goal of a drug-free Indonesia. The population of detention centers and correctional institutions dominated by drug cases proves the failure of the punitive approach to drug control in Indonesia. Instead, this policy model has resulted in a series of structural human rights violations. The international community's encouragement to shift to a humane, evidence-based approach that prioritizes harm reduction should be a top priority in reforming drug policy in Indonesia.

Therefore, the following recommendations are important for the Indonesian government to consider in reorienting drug policy in Indonesia;

- 1. Putting human rights principles first.** This is specifically regarding the right to health in the form of harm reduction, as a mainstreaming of gender-responsive drug policy approaches in Indonesia.
- 2. Strengthen harm reduction policies and programs.** It is important to ensure that harm reduction policies and programs are inclusive, gender-responsive, non-discriminatory, affordable, and far from punitive for people who use drugs in Indonesia.
- 3. Increase the capacity of the state apparatus.** The capacity of the state apparatus needs to be increased along with sensitization on human rights values in handling and providing harm reduction services, especially for all law enforcement officers;

- 4. Expand harm reduction policies and programs for all people who use drugs.** The development of interventions for people who use drugs must keep pace with trends in the types of drugs and ways in which they are used, and must respond to different needs, including gender-specific needs.
- 5. Improve inter-agency coordination for comprehensive harm reduction implementation.** Harm reduction efforts need to involve various government agencies and create an integrated system, rather than stand-alone with their respective sectoral egos.
- 6. Evaluate regulations related to rehabilitation and intervene in any institutions that impede the enjoyment of the highest standard of the right to health for people who use drugs.** This is to ensure rehabilitation practices do not become arbitrary detention centers that open up opportunities for torture, extortion, and exploitation of people who use drugs. Regulations should also include effective mechanisms for every person who uses drugs whose rights have been violated to receive remedy and inclusive and non-discriminatory health services access.
- 7. Strengthen community-based harm reduction outreach.** Community-based outreach programs involving peer workers from the community of people who use drugs can reach hard-to-reach populations, such as non-injecting people who may fear formal services due to stigma or risk of criminalization. Through this community-based program, it is hoped that it can provide the information and services needed in a safer and more comfortable environment.



