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The role of socioeconomic factors in Indonesia's punitive drug policy regime

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Executive summary

Over recent decades, Indonesia has pursued a harsh, criminal justice-focused response to the illicit drug trade, imposing lengthy prison sentences for a wide range of drug offences, including use and possession, as well as imposing death sentences and carrying out executions. This punitive approach is justified by a rationale of deterrence: the belief that sufficiently harsh punishments will deter potential offenders from involvement in drug crime. Yet in practice, the drug trade has continued to flourish, and the punitive approach has resulted in a prison overcrowding crisis, leading the government to consider legislative reforms.

This report addresses a knowledge gap regarding the socioeconomic impacts of Indonesia's current approach to drug policy: *who* in society is most affected, and *how*. It examines the role of a range of socioeconomic factors in pathways to criminalisation for drug offences, and the socioeconomic effects of the punitive approach itself. The report is based on interviews with prisoners serving sentences for drug offences and with representatives of civil society organisations working on drug policy and supporting drug offenders.

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The central section of the report (Section 4) presents analysis of the interaction between punitive policies and socioeconomic factors in two parts. The first part, on pathways to criminalisation, identifies relevant socioeconomic factors including educational background, economic status and gender, in shaping individuals' likelihood of criminalisation for drug offences. The second part, on the socioeconomic effects of existing laws, addresses issues including stigma and discrimination, gender-based violence and compulsory rehabilitation, to highlight how these laws can have disproportionate impacts on the socioeconomically disadvantaged. While too brief to provide an exhaustive evaluation, the report seeks to provide a holistic overview of the risks and harms arising under the punitive approach.

In its analysis of pathways to criminalisation, the report concludes that those who face greater degrees of socioeconomic exclusion appear more likely to be subject to criminalisation for drug offending. Our findings indicate that those criminalised for drug offending generally only have low to average educational backgrounds and that criminalisation may particularly affect those who are unemployed or only precariously employed. For those involved in drug dealing, perceptions of economic opportunity are highlighted as a key motivation for some, including to provide for dependents, while others (especially women) may be involved due to exploitation. Respondents made clear that drug use and involvement in the drug trade occur across social strata in Indonesia, but that those of lower socioeconomic status are overrepresented in the criminal justice system.

In its analysis of the socioeconomic effects of the punitive approach, the report concludes that those who experience greater degrees of socioeconomic exclusion also face greater socioeconomic impacts from the existing regime. Concerns about stigmatisation of drug offenders are emphasised by civil society respondents, with punitive state responses generating further stigma and discrimination, intersecting with social exclusion caused by poverty. Women are reported to face much greater stigma than men. The effects of stigma constitute barriers to employment, leading to economic exclusion. Findings indicate that incarceration may encourage closer relationships between prisoners and the drug trade, with contacts gained while in prison and stigma-based barriers to employment combining to encourage economic reliance on the drug trade after release. The punitive approach is also reported to have secondary impacts on others, notably offenders' families, including their children.

The report's analysis also considers the more recent promotion of a 'restorative justice' solution, with diversion of some drug use cases to rehabilitation treatment. However, it finds that this model has been heavily shaped by the punitive characteristics of the wider system. Problems are reported with the assessment process for rehabilitation, including imprisonment despite recommendations for rehabilitation; assessments not being properly completed; diversion to rehabilitation without assessment; and a need to pay for assessments to gain access to rehabilitation, which could exacerbate socioeconomic disparities. There is an evident risk of compulsory treatment under this model, and respondents share allegations of corruption and extortion in the

referral process. As implemented, this model appears to conflict with core principles of restorative justice philosophy and risks reproducing, rather than reducing, the socioeconomic disparities of the punitive approach. Beyond the failure of the punitive approach on its own terms, as a means to control and reduce the drug trade, the report highlights a variety of risks and harms resulting from Indonesia's current drug policy regime, which are likely to fall most heavily on those in society who already face the most socioeconomic exclusion. As consultations continue on legal reforms, research such as this – and that conducted by other experts and civil society groups in this area – can help to inform evidence-based drug policy which takes account of its societal impacts. Given the direction of international drug policy regimes in shifting rapidly towards human rights-based and health-oriented approaches, bringing Indonesian drug policy into line with these contemporary approaches would help to reduce the disproportionate impacts of the current approach on the poorest and most excluded in society.

Acronyms

| | |
|-------|--|
| ASEAN | Association of Southeast Asian Nations |
| BNN | Badan Narkotika Nasional (National Narcotics Board of Indonesia) |
| CSO | Civil society organisation |
| DPP | The Death Penalty Project |
| DPRU | Death Penalty Research Unit |
| ESRC | Economic and Social Research Council |
| HRI | Harm Reduction International |
| IDR | Indonesian Rupiah |
| IJRS | Indonesian Judicial Research Society |
| INP | Indonesian National Police |
| LBHM | Lembaga Bantuan Hukum Masyarakat (Community Legal Aid Institute) |
| TAT | Integrated Assessment Team |

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1. Introduction

Indonesia's prison system currently faces a significant challenge in the form of severe overcrowding.¹ According to government figures from November 2024, the total prison population now stands at 271,385 – exceeding official capacity by 97%.² In individual prisons, overcrowding rates can be far higher, with one prison identified as being 845% over capacity.³ Such overcrowding has stark impacts: further lowering the quality of already straitened prison conditions; increasing the risks of human rights violations, poor physical and mental health, and lack of sanitation for prisoners; limiting officials' ability to effectively govern prisons and ensure safety and security; and increasing budgetary demands through the need to expand facilities to increase capacity.⁴ The risks of overcrowding were aggravated by the effects of the COVID-19 pandemic, leading the government to seek policy solutions.⁵

The primary driver of Indonesia's prison overcrowding is its punitive drug policy regime, with over 50% of the total prison population incarcerated for drug offences.⁶ The role of drug policy in overcrowding has been acknowledged by ministers from both the current and preceding government.⁷ This problem is the result of the harsh, criminal justice-focused response to the illicit drug trade pursued by Indonesia over recent decades, in the context of a wider pattern of punitive drug policies adopted by countries across Southeast Asia.⁸ As well as imposing lengthy prison sentences for a wide range of drug-related offences, including use and possession offences, Indonesia is one of 35 countries worldwide which retains capital punishment for drug offences, sentencing hundreds of people to death over the past two decades.⁹ This punitive approach is justified by a rationale of 'deterrence': the belief that sufficiently harsh punishments can effectively deter potential offenders from involvement in drug crime.¹⁰

Whilst prison overcrowding is an overt outcome of the current drug policy regime, there is less awareness of the wider socioeconomic impacts of drug policy: who in society is most affected, and how. There is a knowledge

¹ Nixon Randy Sinaga, *The crisis of overcrowded prisons in Indonesia: Barriers to access alternatives to imprisonment* (International Drug Policy Consortium and LBH Masyarakat 2024).

² 'Govt seeking solutions to prison overcrowding: minister' (*Antara News*, 14 November 2024).

³ Dewi Agustina, 'Daftar 10 lapas di Indonesia overkapasitas, paling parah Lapas Kelas II Bagan Siapi-Api Riau' (*Tribunnews*, 30 March 2023).

⁴ Leopold Sudaryono, 'Drivers of prison overcrowding in Indonesia' in Tim Lindsey and Helen Pausacker (eds) *Crime and Punishment in Indonesia* (Routledge 2020) 237; Catherine Heard, *Towards a health-informed approach to penal reform? Evidence from ten countries* (Institute for Criminal Policy Research 2019) 14.

⁵ Gabid Hanafie, 'KUHP Disahkan, Wamenkumham Sebut Bisa Tekan Jumlah Pidana Penjara Pengguna' (*Bakabar*, 11 December 2022).

⁶ 135,823 individuals incarcerated for drug offences as of November 2024, per government figures: 'Govt seeking solutions' (n 2).

⁷ Prabowo Subianto was sworn in as Indonesia's eighth president in October 2024, replacing Joko Widodo who had been in power for over a decade. The new government expressed concerns about prison overcrowding within its first few weeks: 'Govt seeking solutions' (n 2). Similar concerns had been raised by Widodo government officials: Hanafie, 'KUHP Disahkan' (n 5).

⁸ Gideon Lasco, 'Drugs and drug wars as populist tropes in Asia: Illustrative examples and implications for drug policy' (2020) 77(102668) *International Journal of Drug Policy*.

⁹ Carolyn Hoyle, *Dealing with punishment: Risks and rewards in Indonesia's illicit drug trade* (Death Penalty Project 2023) 6; Giada Girelli, Marcela Jofre and Ajeng Larasati, *The Death Penalty for Drug Offences: Global Overview 2022* (Harm Reduction International 2023) 14–15.

¹⁰ Hoyle, *Dealing with punishment* (n 9) 13.

gap regarding the pathways to criminalisation of the many thousands of people incarcerated for drug offences in Indonesia each year, and to what extent the punitive approach may disproportionately impact certain individuals based on socioeconomic factors. Empirical research in this area is crucial to support evidence-informed policy, not least given the role of the deterrence rationale in shaping the present approach. Whereas the deterrence model focuses narrowly on (assumedly) rational decision-making processes at the level of the individual,¹¹ analysis of socioeconomic factors can allow for a broader understanding of structural influences shaping pathways to drug offending and experiences of criminalisation.

This report provides an overview of the impacts of criminal drug policy in Indonesia from a socioeconomic perspective. In doing so, it examines the role of a range of socioeconomic factors, such as education, employment, economic status and gender, as well as the socioeconomic impacts of existing laws, including through stigma and discrimination, gender-based violence, impacts on families, the effects of incarceration, and the compulsory rehabilitation system. Drawing on interviews with Indonesian prisoners serving sentences for drug offences and interviews with representatives of Indonesian civil society organisations (CSOs) working on drug policy and supporting people who use drugs, the report seeks to elucidate the ways in which punitive policies can interact with socioeconomic factors to produce disproportionate impacts on some in society. It concludes that those who face greater degrees of socioeconomic exclusion in Indonesian society appear more likely to be subject to criminalisation for drug use and involvement in the illicit drug trade, as well as being disproportionately subject to the socioeconomic impacts of the existing punitive drug policy regime.

The report is written at a time of potential reform to Indonesian drug policy, with consultations underway through the House of Representatives towards the development of a new Narcotics Bill and amendments to existing legislation.¹² In November 2024, newly appointed Coordinating Minister for Law, Human Rights, Immigration and Corrections Yusril Ihza Mahendra commented: “*Deeper thinking is needed [on overcrowding], including improvements in terms of legislation, especially regarding narcotics.*”¹³ The punitive, deterrence-based model appears not to have succeeded even on its own terms: despite several decades of the regional war on drugs, the illicit production and trafficking of drugs in Southeast Asia has continued to flourish. The market for methamphetamine alone is valued at up to \$60 billion per year by the UN, while its price, for example in tablet form, has often decreased significantly across the region in recent years.¹⁴ By accounting for socioeconomic factors, the wider societal impacts of this approach are made even clearer. International expert

¹¹ Hoyle, *Dealing with punishment* (n 9) 13.

¹² [‘Agree to form a Working Committee for the Narcotics Bill, Commission III of the House of Representatives submits DIM to the government’](#) (*Voice of Indonesia*, 31 March 2022); [‘6 important points of the government’s proposal in the Narcotics Bill, from new psychoactive substances to the Integrated Assessment Team’](#) (*Voice of Indonesia*, 23 May 2022); Arianti Widya, [‘Minister hopes completion of Narcotics Law before Jokowi retires’](#) (*VIVA*, 29 March 2023).

¹³ [‘Govt seeking solutions’](#) (n 2).

¹⁴ Tom Allard and Panu Wongcha-Um, [‘Asia-Pacific meth drug trade worth up to \\$61 billion, U.N. says’](#) (*Reuters*, 18 July 2019); United Nations Office on Drugs and Crime (UNDOC), [‘Synthetic drugs in East and Southeast Asia: Latest developments and challenges’](#) (UNODC 2023) 22.

opinion, including the common positions adopted across UN agencies,¹⁵ now increasingly favours the adoption of human rights-based and public health-oriented approaches in informing less harmful drug policy.¹⁶

2. Methodology

This project was undertaken by the Death Penalty Research Unit (DPRU), University of Oxford, in close collaboration with the Indonesian legal organisation Lembaga Bantuan Hukum Masyarakat (LBHM), who provided extensive support for the research, including in the fieldwork phase. It also builds on an ongoing programme of work with the DPRU's partner organisation the Death Penalty Project (DPP) as part of the Economic and Social Research Council (ESRC)-funded project 'Mapping the Political Economy of Drugs and the Death Penalty in Southeast Asia' (2022-25).¹⁷ For the present report, a number of qualitative data sources are drawn on: interviews with representatives of six Indonesian CSOs working on drug policy issues and supporting people who use drugs undertaken between February and March 2023 (AKSI Keadilan, LBH Masyarakat, LBH Mawar Saron, Rumah Cemara, Suar Perempuan Lingkar Napza Nusantara (SPINN) and Yayasan Karisma); transcripts from a drug policy workshop with these CSOs held in Jakarta in February 2023; short 'knowledge reports' drafted by these CSOs based on their expertise; briefing papers prepared by Dr Claudia Stoicescu as an academic consultant for the project; and desk-based literature reviews conducted by the Oxford research team.

The report also draws on findings from qualitative interviews with prisoners serving sentences for drug-related offences in Indonesia.¹⁸ These interviews were undertaken during October 2021 in collaboration with the DPP, LBHM and the HIV/AIDS Research Centre, Atma Jaya Catholic University, involving a non-random sample of 57 prisoners (53 men, one woman, and three people who did not want to state their gender) in one prison in Jakarta, and conducted face-to-face using a semi-structured interview tool. The tool was designed to explore questions about participants' motivations for offending, decision-making processes and perceptions of risks and benefits, to assess the extent of any deterrent effect, and included questions about participants' backgrounds, including socioeconomic and biographical details, to assess the extent of their precarity, vulnerability and disadvantage.¹⁹

¹⁵ United Nations Office, *United Nations system common position: Supporting the implementation of the international drug control policy through effective inter-agency collaboration* (UN 2023); United Nations, *United Nations system common position on incarceration* (UN 2021).

¹⁶ United Nations, *International guidelines on human rights and drug policy* (UN 2019); UNGA 'Human rights challenges in addressing and countering all aspects of the world drug problem' (15 August 2023) UN Doc A/HRC/54/53; Joanne Csete and others, 'Public health and international drug policy' (2016) 387(10026) *The Lancet* P1427; Damon Barrett, Julie Hannah and Rick Lines, 'What does it mean to adopt a human rights-based approach to drug policy?' (2020) 22(1) *Health and Human Rights Journal* 355.

¹⁷ For further details on this research project, see the [Death Penalty Research Unit website](#).

¹⁸ The full findings from these interviews are available in a longer report published by the Death Penalty Project. See: Hoyle, *Dealing with punishment* (n 9).

¹⁹ Hoyle, *Dealing with punishment* (n 9) 16.

Within the sample of prisoners, the offences which participants were convicted for and the length of their sentences varied. Just under half (44%) were convicted for dealing/selling drugs, a third (32%) for couriering drugs, 16% for possession of drugs and 7% for storing drugs. The vast majority (82%), had been arrested in the five years prior to the interviews, with just over a quarter (26%) serving sentences of more than 11 years, just over a half (52%) serving sentences of 8-10 years and 22% serving sentences of 5-7 years.²⁰ Our data suggest that most of those interviewed were fully culpable of the offences for which they had been convicted.²¹ While we lack reliable details of participants' exact position within the hierarchy of illicit drug networks, most appeared to occupy relatively minor roles rather than those of high-level drug 'kingpins'.²²

As a non-random study with a fairly small sample size, conducted within one prison in Jakarta, the findings are not representative of the total population of prisoners serving sentences for drug-related offences in Indonesia. However, the data suggest potential pathways to criminalisation for drug offending and provide details of individuals' experiences of the Indonesian criminal justice system.²³ Prisoner interviews are complemented by the insights provided by engagement with Indonesian CSOs, which provide perspectives on the impacts of criminal drug policy and individuals' pathways to criminalisation, as well as by insights from the wider literature on drug policy. In drawing on these various sources, we present the key findings thematically with the aim of explicating the socioeconomic factors and impacts.

With respect to terminology, this report seeks to use neutral terms which minimise the potential to contribute to stigmatisation or discrimination. The terms 'drug offences' and 'drug-related offences' are used to refer to drug-related activities which are criminalised under national laws, generally with respect to the laws of Indonesia.²⁴ The term 'drug use' is used to refer to the use of controlled substances in non-medical settings.²⁵ The terms 'people who use drugs' and 'people who inject drugs'²⁶ are used to refer to individuals who respectively use and inject drugs. Furthermore, as detailed further below, under Indonesia's legislative framework, there is not a strict demarcation in practice between offences of drug use, possession, dealing and trafficking, as the lines between these categories are often significantly blurred.²⁷ As such, the report also avoids using the overarching terms 'drug dealers' or 'drug traffickers' to distinguish individuals involved in more serious offences from others involved only in drug use, whilst acknowledging that there is a spectrum of involvement in the illicit drug trade and that drug use should not be conflated with production, sale or trafficking of illicit drugs. Finally, 'socioeconomic analysis' considers aspects of an individual's social and economic position,

²⁰ Hoyle, *Dealing with punishment* (n 9) 22.

²¹ Hoyle, *Dealing with punishment* (n 9) 23.

²² Hoyle, *Dealing with punishment* (n 9) 18.

²³ Hoyle, *Dealing with punishment* (n 9) 6.

²⁴ Girelli, Joffe and Larasati, *The Death Penalty for Drug Offences: Global Overview 2022* (n 9) 6.

²⁵ UN Office on Drugs and Crime (UNODC), *World Drugs Report 2022* (UNDOC 2022).

²⁶ UN Office on Drugs and Crime (UNDOC), *Recommendations: Web – Outreach for people who use drugs* (UNODC 2021) 6.

²⁷ Sinaga, *The crisis of overcrowded prisons in Indonesia* (n 1) 2.

for example education, income or occupation, and taken together, such factors combine to constitute ‘socioeconomic status’.²⁸

3. The legislative context

Indonesia’s current legislative framework for drug control is situated in a context heavily shaped by the waging of a ‘war on drugs’ to end the use, supply and trafficking of illicit substances. After taking office in 2014, then President Joko Widodo declared a national drugs ‘emergency’ (*darurat narkoba*) requiring an emphasis on harsh punishments for drug offenders, including capital punishment.²⁹ Widodo’s declaration reflected a multi-decade regional approach of this kind: in 1998, the Association of Southeast Asian Nations (ASEAN) committed to a plan to eradicate drugs from the ASEAN region by 2020, publishing a ‘Joint Declaration for a Drug-Free ASEAN’.³⁰ This regional approach has fostered an environment of ‘penal populism’, with leaders promising uncompromising responses to drug offending to demonstrate that significant action is being taken.³¹ As a result, funding has remained heavily weighted towards criminal, rather than rights-based or health-oriented, responses: as of 2019, Indonesia had allocated \$25 million per year to health-related drug programmes, less than one fifth of the amount allocated for criminal measures.³²

In Indonesia, punitive criminal drug policy has often been justified by narratives centred around a sense of threat posed by illicit substances.³³ From this perspective, the illicit drug trade is seen as causing one of the most severe forms of societal harm, with drug use characterised as a significant risk to public wellbeing and national security.³⁴ Former President Widodo has stated that: “*Drug abuse is proven to have damaged the future of the nation ... with such destructive power, drugs crimes can be classified as extraordinary and serious crimes, especially drug crimes that are cross-country and organised.*”³⁵ In making this case, the Widodo government drew on alarming statistics about the scale of drug use in Indonesia whose validity has been questioned by medical experts.³⁶ The illicit drug trade has also been described as damaging to the nation’s economic wellbeing, and as having negative moral implications for people who use drugs.³⁷ These arguments have served to underpin

²⁸ Elizabeth Baker, ‘[Socioeconomic status: Definition](#)’ in William Cockerham, Robert Dingwall and Stella Quah (eds) *The Wiley Blackwell Encyclopedia of Health, Illness, Behavior, and Society* (John Wiley and Sons 2014).

²⁹ Claudia Stoicescu, ‘[Forced rehabilitation of drug users in Indonesia is not a solution](#)’ (*The Conversation*, 2 July 2015); Elisabeth Kramer and Claudia Stoicescu, ‘[An uphill battle: A case example of government policy and activist dissent on the death penalty for drug-related offences in Indonesia](#)’ (2021) 92(103265) *International Journal of Drug Policy*.

³⁰ Association of Southeast Asian Nations (ASEAN), [Joint declaration for a drug-free ASEAN](#) (ASEAN 1998).

³¹ Hoyle, [Dealing with punishment](#) (n 9) 13.

³² Hoyle, [Dealing with punishment](#) (n 9) 14; Emily Rowe, ‘[From drug control to harm reduction](#)’ (*Inside Indonesia*, 15 October 2019).

³³ George Havenhand, [Reorienting Drug Policy in Indonesia: Pathways to the Sustainable Development Goals](#) (LBH Masyarakat and Reprieve 2020).

³⁴ The preamble to Law 35/2009 states that narcotics pose a “...great danger to human life, society, the nation, the state and national security.” See also: Kramer and Stoicescu, ‘[An uphill battle](#)’ (n 29).

³⁵ Lasco, ‘[Drugs and drug wars as populist tropes in Asia](#)’ (n 8).

³⁶ Irwanto, Dewa Wirawan, Ignatius Praptoraharjo, Sulistyowati Irianto and Siti Musdah Mulia, ‘[Evidence-informed response to illicit drugs in Indonesia](#)’ (2015) 385(9984) *The Lancet* 2249.

³⁷ Carolyn Hoyle, ‘[A call for new rigorous empirical research to better inform drug trafficking policy in Indonesia](#)’ (*Oxford Centre for Criminology Blog*, 26 June 2019); Carolyn Hoyle and Lucy Harry, ‘[Diversion or death? The moral framework shaping bifurcated punishments for drug offences in Indonesia](#)’ (2024) *Drugs: Education, Prevention and Policy*.

the deterrence rationale, on the basis that severe punishments are necessary to deter individuals from causing societal harms – leading to the entrenchment of the punitive approach by successive governments.

At its most extreme, the punitive criminal approach is marked by the willingness to sentence to death and execute drug offenders. Indonesia is ranked by Harm Reduction International (HRI) as one of a small group of ‘high application’ countries for the imposition of death sentences against drug offenders, along with its regional neighbours Malaysia, Singapore and Vietnam.³⁸ The last executions of drug offenders in Indonesia occurred in 2015 and 2016, when 18 individuals (the majority of whom were foreign nationals)³⁹ were executed after being convicted of drug offences.⁴⁰ These executions were explicitly justified as a response to the purported national emergency.⁴¹ While no executions have since been carried out, for any offence, death sentences are still actively handed down.⁴² According to Amnesty International, 99 new death sentences for drug offences were imposed in Indonesia during 2023 – the vast majority (86%) of the total of 114 recorded death sentences.⁴³ These figures were similar to those recorded during 2022, when 105 death sentences for drug offences were imposed, out of a total of 112 death sentences (94%).⁴⁴ As of the end of 2023, Amnesty International estimated that at least 700 people were on death row.⁴⁵

Capital punishment and lengthy prison sentences have remained a feature of the various stages of development of the post-independence drug control regime. The first significant shift away from the inherited Dutch colonial law of 1927 occurred in 1976,⁴⁶ with the adoption of Law 9/1976, which provided for severe penalties including introducing the death penalty for drug offences.⁴⁷ Two decades later, Law 9/1976 was replaced by new legislation under Law 22/1997, which established a new system of categorisation of illicit substances, and was intended to align Indonesia with international drug control conventions.⁴⁸ Finally, following recommendations for strengthened laws issued by the Indonesian People’s Consultative Assembly, this law was superseded by Law 35/2009,⁴⁹ which remains the main legislative instrument governing drug control today.⁵⁰ The stated objectives of the 2009 legislation are to “ensure the availability of narcotics for the purpose of health and/or the development of science and technology; prevent, protect and save the people of Indonesia

³⁸ Girelli, Jofre and Larasati, *The Death Penalty for Drug Offences: Global Overview 2022* (n 9) 14–15.

³⁹ Andreas Harsono, ‘Indonesia’s death penalty debacle exposed’ (*Human Rights Watch*, 31 July 2017).

⁴⁰ Andrew Purcell, ‘Indonesian drug policy under scrutiny’ (*Reprive*, 9 October 2020); Kramer and Stoicescu, ‘An uphill battle’ (n 29).

⁴¹ Hoyle, ‘A call for new rigorous empirical research’ (n 37).

⁴² A new Criminal Code (‘RKUHP’), which is due to come into effect in 2026, facilitates ‘probationary’ death sentences which can be commuted after a period of 10 years subject to certain criteria. Under the new Criminal Code, judges have the discretion to impose these sentences, potentially leading to commutation, in cases with mitigating circumstances. See: Gunnar Kasim, *New death penalty law in Indonesia* (Institute for Criminal Justice Reform 2023).

⁴³ Amnesty International, *Death sentences and executions in 2023* (Amnesty International 2024) 14.

⁴⁴ Amnesty International, *Death sentences and executions in 2022* (Amnesty International 2023) 14.

⁴⁵ Amnesty International, *Death sentences and executions in 2023* (n 43) 21.

⁴⁶ Faissal Malik, ‘Implementation of regulation of criminal narcotics in Indonesia’ (2021) 9(3) *Jurnal Pendidikan Kewarganegaraan Undiksha* 657, 660.

⁴⁷ Malik, ‘Implementation of regulation of criminal narcotics in Indonesia’ (n 46) 663.

⁴⁸ Havenhand, *Reorienting Drug Policy in Indonesia* (n 33).

⁴⁹ Malik, ‘Implementation of regulation of criminal narcotics in Indonesia’ (n 46) 657.

⁵⁰ Law 35/2009 on Narcotics (Indonesia).

*from the abuse of narcotics; eradicate illicit traffic of narcotics and [precursors]; and ensure the regulation of medical and social rehabilitation efforts for abusers and narcotics addicts.*⁵¹

Under Law 35/2009, there is no demarcation between types of illicit substances based on distinctions around risk, as reflected in common references to ‘softer’ or ‘harder’ illicit substances. Instead, a three-tier categorisation applies. Substances in Category I are only permitted to be used for (government-directed) research purposes, prohibiting any form of medical or personal use; Category II substances can be used only for medical purposes in specific circumstances but not personal use; while substances in Category III can be used more widely for medical purposes but not personal use.⁵² In practice, most well-known illicit substances are grouped together into Category I, including heroin, methamphetamine, cocaine, MDMA and cannabis. In Indonesia, the prevalence of methamphetamine has grown markedly over recent decades, as it has across the wider region, such that it has come to replace heroin as the most widely used illicit substance.⁵³

Law 35/2009 provides for a range of harsh punishments for offences including the use, possession, supply and trafficking of illicit substances.⁵⁴ This includes the imposition of heavy fines and lengthy prison sentences even for drug use and possession for personal use. This means that along with the use of the death penalty, this law (and those that preceded it) have resulted in the incarceration of many thousands of individuals.⁵⁵ Among the offences and punishments contained within this legislation are the following:

- Article 127: Personal use of Category I substances, resulting in a sentence of four years imprisonment or discretionary referral to compulsory rehabilitation in some cases, subject to restrictive criteria⁵⁶
- Articles 111–112: Possession or storage of Category I substances, resulting in sentences of four to twelve years’ imprisonment for smaller amounts, or stricter punishments up to life imprisonment or five to twenty years’ imprisonment beyond a certain weight threshold⁵⁷
- Article 113: Import, export or distribution of Category I substances beyond a certain weight threshold, resulting in sentences up to death, life imprisonment or five to twenty years’ imprisonment⁵⁸
- Article 114: Sale, purchase or exchange of Category I substances beyond a certain weight threshold, resulting in sentences up to death, life imprisonment or six to twenty years’ imprisonment⁵⁹

⁵¹ Law 35/2009 on Narcotics (Indonesia) art 4.

⁵² Law 35/2009 on Narcotics (Indonesia).

⁵³ Rafaela Rigoni, Sara Woods and Joost J Breeksama, ‘[From opiates to methamphetamine: Building new harm reduction responses in Jakarta, Indonesia](#)’ (2019) 16(67) Harm Reduction Journal.

⁵⁴ Law 35/2009 on Narcotics (Indonesia) arts 111–126.

⁵⁵ As noted above, there were 135,823 individuals incarcerated for drug offences as of November 2024, per government figures: ‘[Govt seeking solutions](#)’ (n 2).

⁵⁶ Law 35/2009 on Narcotics (Indonesia) art 127.

⁵⁷ Law 35/2009 on Narcotics (Indonesia) arts 111, 112.

⁵⁸ e.g. over 1 kilogram of plant-based substances such as cannabis or over five grams of synthetic substances such as methamphetamine or cocaine: Law 35/2009 on Narcotics (Indonesia) art 113.

⁵⁹ As above, e.g. over 1 kilogram of plant-based substances such as cannabis or over five grams of synthetic substances such as methamphetamine or cocaine: Law 35/2009 on Narcotics (Indonesia) art 114.

The strict criminalisation of drug use and the nature of the legislation has led to blurred boundaries between offences of drug use and dealing.⁶⁰ For example, for the offence of use of Category I substances under Article 127, which attracts a four-year prison term, it is reportedly often easier for police/prosecutors to establish the more severe offences of possession or storage under Articles 111–12, which can attract much longer prison terms.⁶¹ This means that individuals who may possess even small amounts for personal use could be criminalised under far broader provisions covering the supply of drugs.⁶² According to government figures, 29% of drug-related cases in 2020 involved possession charges.⁶³ A study by the Indonesian Judicial Research Society (IJS) found that in a sample of 745 cases, 45% of those charged with dealing/trafficking offences could actually be considered ‘end users’ of the substances. Many of those in the study had possessed only small amounts likely intended for personal use and could have instead been charged under Article 127.⁶⁴ Commenting on these blurred boundaries, Indonesian human rights lawyer Ricky Gunawan has stated that, “[in] practice, the narcotics law does not differentiate between users and traffickers when criminalising possession.”⁶⁵

4. Socioeconomic analysis

The central section of this report, focused on socioeconomic analysis, is presented in two parts: 4.1, which concerns the role of socioeconomic factors in pathways to criminalisation, and 4.2, which concerns the socioeconomic effects of the punitive approach. The first sub-section identifies relevant socioeconomic factors, e.g. educational background, economic status and gender, in shaping individuals’ likelihood of criminalisation for drug use and involvement in the drug trade in Indonesia: *who* in society is most affected by Indonesia’s drug legislation. The second sub-section focuses on identifying some of the potential socioeconomic impacts of the existing laws, such as stigma and discrimination, gender-based violence and the compulsory rehabilitation system, to highlight how these laws can have disproportionate impacts on those who are socioeconomically disadvantaged: *how* individuals are affected. While not an exhaustive evaluation of all the socioeconomic dynamics that can arise, these two sub-sections seek to provide a holistic perspective on the risks and harms which can arise within Indonesia’s drug policy regime as it is currently applied.

⁶⁰ Adery Ardhan Saputro, ‘[Revisiting Indonesia’s new Criminal Code: A missed opportunity to end legal uncertainty in drug policy](#)’ (International Drug Policy Consortium, 5 June 2023).

⁶¹ Saputro, ‘[Revisiting Indonesia’s new Criminal Code](#)’ (n 60).

⁶² Saputro, ‘[Revisiting Indonesia’s new Criminal Code](#)’ (n 60).

⁶³ Saputro, ‘[Revisiting Indonesia’s new Criminal Code](#)’ (n 60).

⁶⁴ Saputro, ‘[Revisiting Indonesia’s new Criminal Code](#)’ (n 60).

⁶⁵ Purcell, ‘[Indonesian drug policy under scrutiny](#)’ (n 40).

4.1 The role of socioeconomic factors in pathways to criminalisation

4.1.1 Education

One of the key socioeconomic factors discussed with our CSO respondents was the educational backgrounds of the drug offenders that they had experience of engaging with. It was reported that among prisoners on death row for drug offences in Indonesia, the majority – whether Indonesian or foreign nationals – have low levels of education.⁶⁶ For non-capital cases, most CSOs reported engaging primarily with clients who had either only completed secondary education or had not completed it at all.⁶⁷ There was relative consensus that the average level of education among organisations' clients was high school level.⁶⁸ One organisation had previous experience of assisting individuals with university-level education, however this appeared to be relatively rare.⁶⁹ These findings suggested that on the whole, those criminalised for drug offending were not well-educated.

Similar results regarding educational backgrounds emerged in relation to the prisoners serving sentences for serious drug offences in a prison in Jakarta. More than half of those interviewed (57%) had not completed high school. Only three of the 57 prisoners had completed some form of post-secondary education, including one individual who had attended university. Some 14% of the sample had only completed elementary schooling, while 14% had completed junior high school and 28% had completed vocational schooling. Further data collection might assist in exploring whether there is any relationship between education levels and severity of offences, however this was not possible with present studies, given the limited scale of the data.⁷⁰

The finding that those criminalised for drug offending have only low to average educational backgrounds has implications for understanding those individuals' socioeconomic status. Limited educational backgrounds can play a significant role in determining the economic opportunities that individuals have access to; shaping their access to information and knowledge of the law, and ability to negotiate the criminal justice system if arrested;⁷¹ and may perpetuate high-risk situations.⁷² However, some CSOs underlined that the above data on educational backgrounds represented only those *criminalised* for drug offences rather than all those using drugs or otherwise involved in the illicit drug trade, whereas they reported a lack of data on the experiences of better educated individuals with higher socioeconomic status.⁷³ This caveat is important given the role of

⁶⁶ LBH Masyarakat.

⁶⁷ Suar Perempuan Lingkar Napza Nusantara; LBH Mawar Saron; Rumah Cemara.

⁶⁸ AKSI Keadilan.

⁶⁹ Karisma.

⁷⁰ AKSI Keadilan.

⁷¹ Karisma.

⁷² A 2018 study among women who inject drugs in Indonesia found that women with lower levels of education were more likely to engage in sexual risk behaviour and that educational attainment may play an important role in perpetuating high-risk situations and gender power imbalances. Claudia Stoicescu and others, '[Intimate partner violence and HIV-related sexual risk behaviour among women who inject drugs in Indonesia: a respondent-driven sampling study](#)' (2018) 22(10) AIDS and Behaviour 3307.

⁷³ Rumah Cemara.

preconceptions about socioeconomic status in informing stigma and discrimination against drug offenders,⁷⁴ as discussed in further detail in Section 4.2.1 below.

4.1.2 Employment status

Employment status was also a key factor discussed with CSOs, reflecting their experiences of working with those criminalised for drug offences, who very often were unemployed, only precariously employed, and/or facing barriers to employment. Most indicated that a significant proportion of their clients were unemployed: according to data held by one CSO, 48% of those that they provided assistance to during 2020 were either unemployed or without a stable job; another stated that among their clients,⁷⁵ around half were unemployed and half employed, based on a rough approximation.⁷⁶ The problem of unemployment was linked to the limited availability of stable jobs in the licit economy, including in the context of Indonesia's large and growing working age population.⁷⁷ Conversely, the illicit drug trade was cited by some as a route to economic empowerment, with fewer barriers to entry relative to licit employment.⁷⁸

Among the sample of drug offenders interviewed for the Jakarta prison study, many appeared to have made their decisions to become involved in the drug trade under the perception that other economic opportunities were lacking. Just under half of the sample (47%) were unemployed at the time of their arrest. Some specified their lack of employment as the reason for involvement in the drug trade, with one respondent stating: *"I became involved in drugs because I was fired from my previous job."*⁷⁹ Even among those who were employed at the time of their arrest, most were not in stable or well-paying jobs: only 43% of those who were employed had been working in a permanent job, while the majority (57%) of those employed were in temporary employment – generally precarious positions with minimal security which were not lucrative.

Taken together, the findings from our discussions with CSOs and the data from the prison study on employment status indicate that criminalisation for drug offending may particularly affect those who are unemployed or only precariously employed.⁸⁰ These circumstances have implications for individuals' income levels, future employment opportunities and social status, among other socioeconomic variables. As in the case of educational backgrounds, however, several CSOs underlined that this picture of drug offending reflected those criminalised, and does not necessarily represent all of those who may be involved in various forms of drug offending.⁸¹ Individuals in a more secure economic position may nonetheless be involved in drug use and/or the

⁷⁴ Karisma.

⁷⁵ AKSI Keadilan.

⁷⁶ LBH Mawar Saron.

⁷⁷ LBH Mawar Saron.

⁷⁸ Karisma; Suar Perempuan Lingkar Napza Nusantara.

⁷⁹ Hoyle, *Dealing with punishment* (n 9) 23.

⁸⁰ See also: Sudirman Nasir, Doreen Rosenthal and Timothy Moore, ['The social context of controlled drug use amongst young people in a slum area in Makassar, Indonesia'](#) (2011) 22 *International Journal of Drug Policy* 463, 466.

⁸¹ Rumah Cemara; Karisma.

illicit drug trade.⁸² Even accounting for this, there may be particular economic incentives for those struggling to obtain secure employment in the formal economy to be drawn into involvement in drug dealing-related aspects of the illicit drug trade (discussed in more detail in Section 4.1.4 below).⁸³

4.1.3 Economic motivations

When discussing the motivations driving individuals' involvement in drug dealing, the perception of economic reward was raised as a key factor by CSO respondents. Put simply, this can be understood as the belief that involvement in the drug trade provides a fast route to gaining money. Some individuals involved in the drug trade expressed the belief that drug dealing was a way to make money 'instantly'.⁸⁴ Cases were even reported in which children became involved in the sale of drugs in order to provide economic support to their parents, with their parents' awareness of these activities.⁸⁵ Some adults who were involved in drug dealing had begun dealing in small amounts as a child in order to help their parents, before later becoming dealers on a more significant scale.⁸⁶

The power of perceived economic opportunity emerged very clearly in responses from the Jakarta prison study. Among the sample of prisoners, the vast majority (84%) reported having been motivated to commit drug offences by the prospect of financial gain. Some respondents directly referenced the desire for 'quick money', with a few explicitly stating that they saw the illicit drug trade as a means to make fast, easy profits. As one prisoner stated: "*I was just tempted. Drugs easily yield money.*"⁸⁷ Most commonly, however, participants appeared to have been financially motivated by the need to provide for dependents. Among the sample, the majority (43) had dependents: on average, they had 1.14 child dependents but 3.02 dependents including siblings and parents. Most thus had others who were financially dependent on them and just over half (57%) were involved in the drug trade in order to support these dependents. Rather than seeking 'quick money' simply to pay for luxuries, most of the participants felt that they needed money to pay for basic needs, such as housing, medicine or education, often for their dependents. For example, some mentioned paying for their child's education, or making their parents comfortable, including, in one case, a participant who reported that he was paying for the costs of his mother's medical treatment.

The relationship between involvement in the drug trade and perceptions of economic reward was further elaborated through questions to the sample of prisoners concerning their pre-incarceration income. In particular, these questions raised an important distinction between participants' licit and illicit incomes. While the majority of respondents stated that at the time of their arrest, their financial situation was either 'good'

⁸² LBH Mawar Saron, Rumah Cemara.

⁸³ AKSI Keadilan; Suar Perempuan Lingkar Napza Nusantara.

⁸⁴ Rumah Cemara; Karisma.

⁸⁵ Karisma.

⁸⁶ Karisma.

⁸⁷ Hoyle, *Dealing with punishment* (n 9) 35.

(22) or ‘more than good’ (8), further questions about their earnings clarified that for most of them, this was not due to lawful employment but due to their involvement in the drug trade. The majority were in fact making most of their money from the drug trade: average monthly licit income at the time of arrest was 5.3m IDR (\$334), only slightly above the 2022 minimum wage for the Jakarta region of 4.6m IDR (\$290), however income from the drug trade was significantly higher, with average reported monthly income of IDR 39.3m (\$2,474).⁸⁸ Based on lawful employment alone, most did not feel able to make a decent wage: without their income from the drug trade, three-quarters of prisoners considered that they did not have enough money to get by.⁸⁹ These answers suggest that among many of the prisoners, involvement in the drug trade had indeed served the function of providing a route to economic opportunity that seemed less easy to obtain through licit routes.

In considering these findings regarding the potential role of economic motivations in the illicit drug trade, we must be clear about distinguishing the backgrounds of those already convicted for involvement in the illicit drug trade, who may be particularly vulnerable to criminalisation, from the wider population within the trade, some of whom may avoid detection and prosecution. Those working in CSOs made clear that drug use could be found across all socioeconomic strata in Indonesia, with greater risk of criminalisation for those of lower socioeconomic status.⁹⁰ Data was reported to be lacking on the involvement of those from higher socioeconomic backgrounds (e.g. those with better jobs and educational backgrounds) in the illicit drug trade more widely.⁹¹ This does not however mean that there is no relationship between economic motivations for drug dealing and socioeconomic status: it was suggested that wealthier drug users might often be able to limit their involvement in the drug trade to drug use only, as they would have less incentive to become involved in dealing than those with lesser access to economic opportunities in the lawful economy.⁹²

4.1.4 Pathways to drug dealing offences

The potential for individuals to ‘graduate’ from drug use to greater involvement in the drug trade through drug dealing and related activities was frequently highlighted as a pathway to criminalisation. Almost all of the CSOs that we engaged with discussed the potential for drug use to lead poorer users to seek money to fund their usage, which they could choose to do by becoming more closely involved in drug dealing, for example by working as a courier. As one civil society respondent explained, for a drug user, “*the easiest way to get narcotics*

⁸⁸ This is based on earnings across those in the sample who provided relevant information. Interviewees were not asked about their illegal income and so we do not have full data for the full sample. However, in answering a question about income at the time of the offence, 29 of the participants provided further information about illicit earnings. See: Hoyle, *Dealing with punishment* (n 9) 25.

⁸⁹ One point of note in this regard was the fact that a few respondents seemed confused by the distinction between legal and illegal work in our survey questions, which may point towards a more fluid conceptualisation of employment in the informal economy. See: Hoyle, *Dealing with punishment* (n 9) 33.

⁹⁰ Rumah Cemara.

⁹¹ Rumah Cemara.

⁹² Karisma.

*to meet the needs of his addiction is to get involved [in drug dealing].*⁹³ This phenomenon was widely cited among CSOs as the key pathway to drug dealing and reflected in the wider literature on drug policy.⁹⁴ Such a dynamic would suggest that for more economically disadvantaged people who use drugs, if their intended usage increases beyond their ability to fund it, they may be more likely to be drawn towards greater involvement in the drug trade, creating the risk of more serious criminalisation for those of lower socioeconomic status.

The financing of individuals' drug use would appear to be a prominent driver of entry into drug dealing, at least at lower levels of involvement in the drug trade. It should be noted however that these findings may be unlikely to shed light on pathways into the most serious levels of involvement in the illicit drug trade, such as those of the 'kingpins' operating at the top of the trade.

Beyond the financing of drug use, our research focused on a number of other factors in pathways to criminalisation for drug dealing. These included respondents' suggestions that limited economic opportunity can be a motivating factor to become involved in the drug trade, leading individuals to begin e.g. working as drug couriers to transport drugs;⁹⁵ that some can become involved in drug dealing as children in order to provide financial support for their family;⁹⁶ and that others – especially of those with low levels of education and minimal legal knowledge, who might be more easily influenced/forced into involvement – can be subject to exploitation by powerful actors from drug networks.⁹⁷ One CSO also cited the potential influence of patriarchal societal pressures on men to act as the economic 'backbone' of their families, which could make them vulnerable to involvement in the drug trade in order to meet these expectations and provide for dependents.⁹⁸ Individual pathways to drug dealing likely depend on the complex interplay of various factors of these kinds, with those of lower socioeconomic status facing greater pressures toward involvement and subsequent criminalisation.

4.1.5 Pathways to drug use offences

When discussing individuals' pathways to involvement in drug use in Indonesia, civil society respondents raised a variety of factors as potential drivers, including mental ill-health. They referred to the use of drugs as a means of finding "*peace*" and "*comfort*", or the "*treatment of mental wounds*".⁹⁹ For women in particular, the impacts of experiences of violence, for example from the state, from family or from intimate partners, were noted as influential – see further, Section 4.2.2 below.¹⁰⁰ In the wider academic literature, adverse childhood

⁹³ AKSI Keadilan.

⁹⁴ Patrick Meehan and others, '[Young people's everyday pathways into drug harms in Shan State, Myanmar](#)' (2022) 43(11) Third World Quarterly 2712.

⁹⁵ LBH Mawar Saron.

⁹⁶ Karisma; LBH Masyarakat.

⁹⁷ Suar Perempuan Lingkar Napza Nusantara; Samantha Jeffries and others, '[Extending borders of knowledge: Gendered pathways to prison in Thailand for international cross border drug trafficking](#)' (2021) 28(6) Psychiatry, Psychology and Law 909.

⁹⁸ LBH Masyarakat.

⁹⁹ Suar Perempuan Lingkar Napza Nusantara; AKSI Keadilan.

¹⁰⁰ Suar Perempuan Lingkar Napza Nusantara.

experiences which could include abuse, neglect, household dysfunction or the death of a caregiver,¹⁰¹ have been cited as factors increasing propensity towards drug use.¹⁰² The role of mental health issues in relation to drug use was described as particularly relevant within a societal context where mental health issues could often be taboo, contributing to a lack of information and provision of relevant support services.¹⁰³ This context may lead individuals who face barriers to receiving support towards self-medication through the use of illicit substances. Another cited factor in pathways to drug use was work-related pressures, with the use of amphetamine-type stimulants allowing workers to maintain their energy while working for long hours or in demanding settings,¹⁰⁴ a factor that has also been reported elsewhere in the research literature on drug use in Indonesia.¹⁰⁵

A number of further factors were raised by the civil society respondents that we engaged with as potential pathways to criminalisation for drug use offences. One organisation suggested that some individuals who initially become involved in the drug trade for purely economic reasons may later begin to use drugs themselves, and cited a case in which a young woman began dealing drugs to provide for her family but later also became a user.¹⁰⁶ The role of peer groups and association was emphasised by some, a factor that is also reflected in the wider literature.¹⁰⁷ In one example provided by a CSO, an individual who had ceased drug use after struggling with addiction returned to his previous social environment where his friends were still using drugs, resumed use, and was arrested on the first day of restarting use.¹⁰⁸ It was noted that people who use drugs might also face greater risk of criminalisation under drug dealing provisions when purchasing narcotics among a group of users to share.¹⁰⁹ Cases were also described where individuals were allegedly criminalised for drug possession offences on the basis of entrapment by law enforcement agencies – such as through the receipt of an

¹⁰¹ Adverse childhood experiences (ACEs) can be broadly defined as “those experiences which require significant adaptation by the developing child in terms of psychological, social, and neurodevelopmental systems, and which are outside of the normal expected environment.” Rebecca Lacey and Helen Minnis, [‘Practitioner review: Twenty years of research with adverse childhood experience scores – advantages, disadvantages and applications to practice’](#) (2020) 61(2) *Journal of Child Psychology and Psychiatry* 116, 117.

¹⁰² Shanta Dube and others, [‘Childhood abuse, neglect, and household dysfunction and the risk of illicit drug use: The adverse childhood experiences study’](#) (2003) 111(3) *Pediatrics* 56; Leire Leza and others, [‘Adverse childhood experiences \(ACEs\) and substance use disorder \(SUD\): A scoping review’](#) (2021) 221(1) *Drug and Alcohol Dependence* 108563; Brenda Gomez and others, [‘Adverse childhood experiences and illicit drug use in adolescents: Findings from a national addictions treatment population in Singapore’](#) (2018) 23(1) *Journal of Substance Use* 86; Nadya Puspita Adriana, [‘The association between maternal adverse childhood experiences and substances abuse: A systematic review’](#) (2024) 6(3) *Indonesian Journal of Global Health Research* 2714.

¹⁰³ *Suar Perempuan Lingkar Napza Nusantara*; AKSI Keadilan. A 2014 study by Yi Li and others found a strong linkage between severe depressive symptoms and ongoing substance use among a sample of injecting drug users undergoing HIV treatment. Risk was found to be elevated among those who are younger and unemployed, indicating a potential role of socioeconomic factors in exacerbating negative outcomes. See: Yi Li and others, [‘Factors associated with symptoms of depression among injection drug users receiving antiretroviral treatment in Indonesia’](#) (2014) 5(5) *Journal of AIDS and Clinical Research* 1000303.

¹⁰⁴ LBH Masyarakat; Rumah Cemaia.

¹⁰⁵ Cecep Mustafa, Margaret Malloch and Niall Hamilton-Smith, [‘Judicial perspectives on the sentencing of minor drug offenders in Indonesia: Discretionary practice and compassion approaches’](#) (2020) 74 *Crime, Law and Social Change* 297, 300.

¹⁰⁶ LBH Mawar Saron.

¹⁰⁷ AKSI Keadilan; LBH Mawar Saron; Jeffries and others, [‘Extending borders of knowledge’](#) (n 97); Natalie Jones and others, [‘A quantitative exploration of gendered pathways to crime in a sample of male and female juvenile offenders’](#) (2014) 9(2) *Feminist Criminology* 113; Mally Shechory, Gali Perry and Moshe Addad, [‘Pathways to women’s crime: Differences among women convicted of drug, violence and fraud offenses’](#) (2011) 151(4) *The Journal of Social Psychology* 399.

¹⁰⁸ LBH Masyarakat.

¹⁰⁹ Rumah Cemaia.

unsolicited package containing drugs – reportedly in order to meet objectives such as arrest quotas or to improve officials’ promotion prospects.¹¹⁰

4.1.6 Gender

While the vast majority of those criminalised for drug offences in Indonesia are men, and many of our categories of analysis were addressed in generalised terms, we also sought to understand the gendered specificities that may shape women’s pathways to criminalisation. Based on figures from October 2024, of 13,384 female prisoners in Indonesia, one in three (32.9%) were incarcerated for drug-related offences.¹¹¹ One study of women who use drugs in Indonesia found that among the research sample, 48% had been arrested at least once in the past, primarily for offences relating to drug use/possession.¹¹² In addition to drug use, women may occupy varying roles within the hierarchies of drug trading networks, from lower-level couriering roles through to strategic leadership roles,¹¹³ albeit, insofar as we know, men are more likely to occupy positions of power in these hierarchies,¹¹⁴ with patriarchal social norms shaping their structures.¹¹⁵

With regard to women’s pathways to drug use and/or involvement in the drug trade, a primary factor raised by all CSOs was that of male romantic partners influencing women’s decision-making and behaviour. Several CSOs stated that romantic relationships could constitute a pathway to drug use, including through exposure to illicit substances or forced use,¹¹⁶ with one CSO noting that for most of the women they supported in drugs cases, their access to drugs and relevant information was via male romantic partners.¹¹⁷ Others emphasised instances where women became involved through fear of their male partners and being subject to coercion.¹¹⁸ Again, as with drug use, the nature of this influence could range from such coercion, deceit, or because of the economic dependence of a women on her male romantic partner.¹¹⁹ One CSO noted their awareness of cases involving women who had received the death penalty for drug offences after becoming involved in the drug trade via their male romantic partners.¹²⁰

The important role of male intimate partners in relation to women’s pathways has been found elsewhere in the research literature. A 2018 study of gendered pathways to prison in Thailand found that women were more likely to begin or accelerate drug use, and become involved in the drug trade, within the context of a romantic

¹¹⁰ LBH Mawar Saron.

¹¹¹ Directorate of Correctional Facilities, ‘[Correctional Registration Data Warehouse](#)’ (Republic of Indonesia 2024).

¹¹² Claudia Stoicescu and Marija Pantelic, *Women who use drugs in Indonesia: The harmful impacts of drug control* (International Drug Policy Consortium 2022).

¹¹³ LBH Masyarakat.

¹¹⁴ LBH Mawar Saron.

¹¹⁵ AKSI Keadilan.

¹¹⁶ Rumah Cemara; Karisma.

¹¹⁷ Suar Perempuan Lingkar Napza Nusantara.

¹¹⁸ LBH Masyarakat.

¹¹⁹ AKSI Keadilan.

¹²⁰ AKSI Keadilan.

relationship with a man.¹²¹ A 2012 study undertaken in central Java, Indonesia, found that male partners played a key role in initiation of drug use, provision of drugs and drug-related behaviours among women who inject drugs, noting the “*power imbalances in the social, cultural and economic spheres between men and women who inject drugs*”.¹²² A further study of women who inject drugs in central Java from 2010 found that control – both physical and psychological – was central to the role of intimate partnerships in the lives of many of the women in the study sample, with women often submitting to their male partner’s wishes as a way of avoiding conflict and confrontation (including due to cultural norms favouring these responses).¹²³

With regard to involvement in the drug trade in particular, some CSOs also highlighted women’s economic motivations. These could include the need to provide for one’s family: in one case study shared by a CSO, a woman with a two-month-old child became involved in drug dealing in order to secure the income she needed to buy food and milk for her baby (ultimately receiving a 2.5 year prison sentence after being caught and convicted).¹²⁴ Other examples concerned women becoming involved in the drug trade as lower-level drug couriers in order to meet the financial needs of their families, for example women with several dependent children without a partner.¹²⁵ This factor is also found in the wider literature, with one global review finding that most women who were involved in the trafficking of drugs became involved either because of their romantic partners or to financially support their children/families.¹²⁶

In many respects, these economic motivations mirror those that appear to draw men into involvement in the drug trade (as discussed in generalised terms above), however these incentives may have even greater weighting for women facing gendered barriers to participation in the licit economy. A 2017 study of Indonesia found a gender wage gap of 34% in the formal sector and 50% in the informal sector, primarily as a result of “*discriminatory practices*”; the study also found a female labour force participation rate of 51%, significantly below the male participation rate of 80%.¹²⁷ One organisation argued that if women had access to more promising economic opportunities, they would be less likely to become involved in the drug trade.¹²⁸ These concerns reflect the wider issues of socioeconomic exclusion faced by women in Indonesia. As well as facing barriers to employment opportunities, women may also face barriers to access to education, including due to social norms and expectations encouraging women to prioritise domestic care work.¹²⁹ These diminished

¹²¹ Jeffries and others, ‘[Extending borders of knowledge](#)’ (n 97).

¹²² Elan Lazuardi and others, ‘[Boyfriends and injecting: The role of intimate male partners in the life of women who inject drugs in Central Java](#)’ (2012) 14(5) *Culture, Health and Sexuality* 491, 492.

¹²³ Catherine Spooner and others, ‘[Women who inject drugs in central Java and HIV risk](#)’ (International HIV Research Group, University of New South Wales 2010) 20.

¹²⁴ LBH Mawar Saron.

¹²⁵ LBH Masyarakat.

¹²⁶ Jennifer Fleetwood and Lindsay Leban, ‘[Women’s involvement in the drug trade: Revisiting the emancipation thesis in global perspective](#)’ (2022) 44(2) *Deviant Behavior* 238.

¹²⁷ Australia Indonesia Partnership for Economic Governance (AIPEG), ‘[Women’s economic participation in Indonesia: A study of gender inequality in employment, entrepreneurship, and key enablers for change](#)’ (AIPEG 2017) 7.

¹²⁸ Suar Perempuan Lingkar Napza Nusantara.

¹²⁹ AIPEG, ‘[Women’s economic participation in Indonesia](#)’ (n 127) 5.

opportunities arising from patriarchal structures can restrict women's socioeconomic status more broadly, for example leaving them less likely to receive university degrees or to access higher status, more lucrative employment.¹³⁰

Issues of structural imbalances disadvantaging women were reflected in CSOs' comments highlighting the power dynamics shaping women's involvement in drug use/the drug trade. Within the drug trade, CSOs believed that women can be more vulnerable to exploitation, which could arise at multiple points along the narcotics supply chain.¹³¹ One civil society respondent stated that among women who are criminalised for involvement in the drug trade, "*there are [women] who are framed, victims of power relations, [and] victims of violence.*"¹³² For example, some women may be deceived into involvement in drug dealing offences.¹³³ These issues of exploitation could arise within intimate partnerships, with one CSO noting the role of "*unequal power relations with intimate partners*" experienced by women involved in the drug trade.¹³⁴ Similar structural concerns are also found in the research literature, with studies highlighting for example that women with vulnerabilities tend to be targeted for involvement in the drug trade;¹³⁵ that women's pathways to criminalisation are generally more difficult than those of men, with fewer opportunities to leave the drug trade;¹³⁶ and that women's lower socioeconomic status in the Indonesia context may drive some to engage in drug-related risk behaviour.¹³⁷

4.1.7 Structural socioeconomic factors and the criminal justice system

As noted above, respondents reiterated that drug use and involvement in the drug trade occurred across social strata and should not be assumed to be the preserve of those of lower socioeconomic status, but rather that those of lower socioeconomic status were significantly overrepresented in the Indonesian criminal justice system.¹³⁸ Indonesia's existing drug legislation was characterised as targeting people from the lowest socioeconomic positions who do not have access to a high standard of living and do not hold strategic positions in society, with the majority of those on death row for serious drug offences, for example, having low levels of education and having been unemployed.¹³⁹ The case of one individual from a lower socioeconomic position, a motorcycle driver who was imprisoned for drug offences after a lengthy trial process, was contrasted with those of higher profile individuals, such as politicians or celebrities, who, it was argued, would be more likely to

¹³⁰ LBH Masyarakat.

¹³¹ LBH Masyarakat; Suar Perempuan Lingkar Napza Nusantara.

¹³² LBH Masyarakat.

¹³³ LBH Masyarakat.

¹³⁴ AKSI Keadilan.

¹³⁵ Julia Kensy and others, *Drug policy and women: Addressing the negative consequences of harmful drug control* (International Drug Policy Consortium 2012).

¹³⁶ Jeffries and others, '[Extending borders of knowledge](#)' (n 97).

¹³⁷ Stoicescu and others, '[Intimate partner violence and HIV-related sexual risk behaviour](#)' (n 72).

¹³⁸ AKSI Keadilan; Rumah Cemara.

¹³⁹ LBH Masyarakat.

receive lenient sentencing or rehabilitation treatment.¹⁴⁰ In fact, these disproportionate impacts on the socioeconomically excluded have even been recognised at the judicial level in Indonesia, with one District Judge in a court in an urban area telling researchers in a 2020 study that: “*Nowadays [after the 2009 Narcotics Law], drug consumption is seen as a crime and the average person accused/charged with drug consumption is from an underprivileged/poorer background.*”¹⁴¹ These comments reflect a wider recognition of the impact of Law 35/2009 on those of lower socioeconomic status from various judges in the study.¹⁴²

This perspective emphasises the interaction of structural socioeconomic factors in individuals’ experiences of negotiating the criminal justice system in Indonesia. One CSO that undertakes visits to drug offenders in detention stated that at one detention centre, an estimated 95% of detainees are economically disadvantaged, and that it is easier for police officials to arrest, extract confessions from, and physically abuse those of lower socioeconomic status.¹⁴³ For wealthier individuals of higher socioeconomic status, meanwhile, there may be less risk of criminalisation, which may be a result of, inter alia, lesser involvement in drug dealing offences (as addressed above), or that those of higher socioeconomic status are in a better position to negotiate the legal process if ever arrested, due to their higher literacy, knowledge of their rights, and socioeconomic position, relative to those of lower socioeconomic status caught up in the same system.¹⁴⁴ The risk of criminalisation may also be reduced through payments to law enforcement officials, as a way of avoiding arrest and/or incarceration, giving those of higher socioeconomic status greater leverage to favourably negotiate the criminal process. The persistence of corruption in the criminal justice process was identified by all CSOs,¹⁴⁵ and has been highlighted by past cases allegedly linking police officials with the drug trade,¹⁴⁶ benefitting the powerful individuals profiting from influential positions in drug trading hierarchies and disadvantaging those of lower socioeconomic status. Overall, civil society respondents made clear that socioeconomic status would be a primary determinant of whether and how individuals involved in the drug trade would engage with and experience the criminal justice system – essentially, of *who* would be criminalised for drug offences in Indonesia.

¹⁴⁰ LBH Masyarakat.

¹⁴¹ Mustafa, Malloch and Hamilton-Smith, ‘[Judicial perspectives on the sentencing of minor drug offenders in Indonesia](#)’ (n 105) 302.

¹⁴² The authors conclude: “In the context of Indonesia, socio-economically disadvantaged offenders have become disproportionately a target of the criminal justice system. They are punished because their social economic circumstances mean they are easily identifiable and subsequently, are easy to arrest. ... This contrasts with middle-upper class offenders, who remain hidden from the criminal justice [system] because, although they are arrested, are more likely to be released early and have their cases closed.” See: Mustafa, Malloch and Hamilton-Smith, ‘[Judicial perspectives on the sentencing of minor drug offenders in Indonesia](#)’ (n 105) 310.

¹⁴³ LBH Mawar Saron.

¹⁴⁴ Karisma.

¹⁴⁵ LBH Mawar Saron; Karisma; LBH Masyarakat; Rumah Cemara; Suar Perempuan Lingkar Napza Nusantara; AKSI Keadilan.

¹⁴⁶ Maidina Rahmawati, ‘[Decriminalising drug use would help stop corrupt police narcotics trafficking](#)’ (*Indonesia at Melbourne*, 2 November 2022).

4.2 The socioeconomic effects of the punitive approach

4.2.1 Stigma and discrimination

Various forms of stigma and discrimination can arise within the current punitive approach to drug policy, with concerns about stigmatisation of people who use drugs and other drug offenders emphasised by many of the civil society respondents. These concerns included the use of stigmatising language, such as the widespread application of the label ‘addicts’ to refer to all people who use drugs.¹⁴⁷ Advocates have also previously highlighted the conflation of drug use and drug dependence at the official level, and the characterisation of drug dependence as a ‘social dysfunction’ within existing regulations.¹⁴⁸ Additionally, educational and religious contexts were noted as potential sites of stigmatisation. It was reported that some religious leaders maintain a paradigm in which people who use drugs are understood as ‘immoral’ or, in the words of one civil society representative, “*as if they have committed a grave sin against religion.*”¹⁴⁹ Respondents also noted that negative messages conveyed about narcotics and people who use drugs in educational settings can contribute to harmful perceptions and lead people who use drugs to have limited knowledge of their own legal rights.¹⁵⁰

Beyond these sources of stigma, it was argued by civil society respondents that punitive state responses can generate stigma, for example with the criminalisation of drug use leading people who use drugs to be conceived of as criminals in the minds of the public.¹⁵¹ Furthermore, respondents noted that the common assumption that those involved with drug use and the drug trade were necessarily those who were poor and/or unemployed led to further stigmatisation. These perceptions generate discrimination, with one respondent describing the belief among some that “*drug users are the trash of society.*”¹⁵² This aspect of stigmatisation has persisted despite many instances of those from other social positions, including senior police officials,¹⁵³ having previously been convicted of drug-related offences. These dynamics risk further marginalising those of lower socioeconomic status, who, as detailed above, are likely to be those most affected by harsh penal policy. Social stigma can often be exacerbated by its intersection with social inequalities including poverty, leading to a ‘double burden’ of compounded discrimination.¹⁵⁴

Stigma and discrimination generated within the punitive system can produce many effects, not least in employment settings. Civil society respondents reported that individuals who were known or believed to use

¹⁴⁷ Karisma.

¹⁴⁸ Ardhanj Suryadarma and Dania Putri, *Integration of harm reduction into drug rehabilitation programmes in Indonesia* (International Drug Policy Consortium 2018).

¹⁴⁹ LBH Masyarakat.

¹⁵⁰ Karisma.

¹⁵¹ Karisma; Rumah Cemara.

¹⁵² LBH Masyarakat.

¹⁵³ M Faiz Zaki, ‘[Police general Teddy Minahasa sentenced to life over drug scheme](#)’ (*Tempo*, 9 May 2023).

¹⁵⁴ Sarju Sing Rai and others, ‘[Intersectionality and health-related stigma: Insights from experiences of people living with stigmatized health conditions in Indonesia](#)’ (2020) 19 *International Journal for Equity in Health*, 7.

drugs faced significant barriers to gaining employment in the licit economy, to the extent that they may not be able to secure a job.¹⁵⁵ This could compound the exclusion faced by people who use drugs and provide an incentive towards economic involvement in the drug trade. On the interpersonal level, it was reported that due to the power of social stigma, some drug offenders can be ostracised from their families after their release from prison.¹⁵⁶ Ostracism might also occur within communities, such as local, ethnic or religious communities, with some individuals facing difficulties in reintegrating into their communities after incarceration, causing negative psychological impacts¹⁵⁷ and potentially increasing the likelihood of individuals' engagement with other groups involved in the drug trade.¹⁵⁸ A further effect of stigmatisation noted by respondents was the tolerance of violence or abuse towards people who use drugs on the part of law enforcement officials.¹⁵⁹

4.2.2 Gender-based discrimination and violence

Social stigma and discrimination towards drug offenders appears to have a greater impact on women than men.¹⁶⁰ After serving a prison sentence for drug offences, for example, women can face levels of discrimination beyond that experienced by formerly incarcerated men, with one respondent stating: "*When women leave detention, they will bear more shame and discrimination.*"¹⁶¹ This stigma and discrimination, which may be experienced on interpersonal, communal and/or institutional levels, can manifest in the form of barriers to access to justice, healthcare and wider social support.¹⁶² It can have significant health impacts, including in relation to HIV infection and mortality risks,¹⁶³ as well as negatively impacting women's mental health.¹⁶⁴ Stigmatisation can also increase the likelihood of women's ostracism from their families and communities,¹⁶⁵ with female drug offenders subject to social perceptions of 'immorality' because of conflicts with social norms surrounding women's expected behaviour. This could lead female drug offenders to be perceived as 'personal failures',¹⁶⁶ or, as Stoicescu (2022) writes, as "*unfit mothers and wives and otherwise morally deficient.*"¹⁶⁷

¹⁵⁵ Karisma; LBH Masyarakat.

¹⁵⁶ Rumah Cemara; Suar Perempuan Lingkar Napza Nusantara.

¹⁵⁷ LBH Mawar Saron.

¹⁵⁸ Karisma.

¹⁵⁹ Karisma.

¹⁶⁰ Karisma; Suar Perempuan Lingkar Napza Nusantara; LBH Masyarakat; AKSI Keadilan.

¹⁶¹ LBH Masyarakat.

¹⁶² Expert briefing by academic consultant Dr Claudia Stoicescu (2023, on file with author). See also: Stephanie Meyers and others, '[The intersection of gender and drug-use related stigma: A mixed methods systematic review and synthesis of the literature](#)' (2021) 223 Drug and Alcohol Dependence 108706.

¹⁶³ Nabila El-Bassel and others, '[Intertwined epidemics: Progress, gaps, and opportunities to address intimate partner violence and HIV among key populations of women](#)' 9(3) The Lancet HIV E202; Catherine Spooner and others, '[Impacts of stigma on HIV risk for women who inject drugs in Java: A qualitative study](#)' 26(12) International Journal of Drug Policy 1244.

¹⁶⁴ Stoicescu and Pantelic, '[Women who use drugs in Indonesia](#)' (n 112).

¹⁶⁵ Karisma.

¹⁶⁶ Suar Perempuan Lingkar Napza Nusantara.

¹⁶⁷ Claudia Stoicescu, '[New research shows how Indonesia's drug control victimises women and puts their health at risk](#)' (*The Conversation*, 24 June 2022).

Widespread concerns were also raised about the vulnerability of women who use drugs and/or are involved in the drug trade to physical, sexual and economic gender-based violence.¹⁶⁸ Indeed, a 2022 report from Indonesia found that women who use drugs were more likely to experience physical violence (which may be committed by partners, other members of society or official actors) than those who do not.¹⁶⁹ Those who engage in sex work (approximately one-third of women who use drugs in Indonesia) can face even greater risks of being exposed to violence and exploitation.¹⁷⁰ Referring also to the experiences of transgender individuals and those of other gender identities, one respondent stated that: “*Women, trans women/trans men and people with other gender identities who use/are involved in the narcotics trade are more vulnerable to experiencing violence and discrimination*”,¹⁷¹ with transgender women facing especially high levels of violence and discrimination.¹⁷²

Physical violence towards women at the hands of intimate partners was reported to be commonplace in relation to drug use and the drug trade.¹⁷³ As discussed above, some women’s involvement in the drug trade may arise under coercive pressure from male romantic partners, including due to threatened or actual physical violence¹⁷⁴ (some respondents also noted that some men may at times be subject to similar dynamics at the hands of female romantic partners).¹⁷⁵ One CSO noted specifically the role of men in “*controlling, harassing, [and] manipulating women so that [they] are trapped in romantic relationships*” where they are deceived into involvement in the drug trade.¹⁷⁶ A study carried out in Indonesia in 2016 found that among a group of 731 women who inject drugs, 50% reported experiencing physical violence from their partner in the previous year, while 38% reported experiencing sexual violence from their partner.¹⁷⁷ In one case study provided, a woman reported her male partner to the police due to physical violence committed against her, however on finding evidence of drug use she was instead arrested by the police and no further action was taken regarding the allegations of violence against her partner.¹⁷⁸ This example highlights the potential for authorities to prioritise the implementation of punitive drug policy at the expense of protecting women from intimate partner violence.

Violence against women in relation to drug use and the drug trade was also reported to occur at the hands of state officials. Risks of experiencing harassment and violence were noted to arise throughout the stages of the

¹⁶⁸ LBH Masyarakat; Suar Perempuan Lingkar Napza Nusantara; Karisma.

¹⁶⁹ Stoicescu and Pantelic, *Women who use drugs in Indonesia* (n 112).

¹⁷⁰ Claudia Stoicescu and others, ‘[Syndemic and synergistic effects of intimate partner violence, crystal methamphetamine, and depression on HIV sexual risk behaviours among women who inject drugs in Indonesia](#)’ (2019) 96 *Journal of Urban Health* 477.

¹⁷¹ Suar Perempuan Lingkar Napza Nusantara.

¹⁷² Anindita Gabriella Sudewo and others, “Violence often happens, that’s the life of a transwoman”: A qualitative study exploring transwomen’s lived experience of gender-based violence in Indonesia’ (forthcoming journal publication).

¹⁷³ Karisma; Rumah Cemara.

¹⁷⁴ AKSI Keadilan.

¹⁷⁵ AKSI Keadilan; Rumah Cemara.

¹⁷⁶ Rumah Cemara.

¹⁷⁷ Claudia Stoicescu, *Women speak out: Understanding women who inject drugs in Indonesia* (Indonesian Drug Users Network 2016)

17.

¹⁷⁸ Suar Perempuan Lingkar Napza Nusantara.

criminal process, from arrest through to incarceration.¹⁷⁹ Recent research in Indonesia has found that despite women being less likely than men to use, possess or sell drugs, they are more likely to be targeted by the police and to experience harsher treatment if they are.¹⁸⁰ In the 2016 study of 731 Indonesian women who inject drugs mentioned above, it was found that among those who had been arrested on drug-related charges in the past, 27% reported experiencing physical violence at the hands of police and 5% experiencing sexual violence from police officials, while 87% reported experiencing extortion and 60% reported experiencing verbal abuse.¹⁸¹ Whether at the hands of intimate partners, others from society, or state officials, the gender-based discrimination arising under the punitive drug regime ultimately appears to make women who use drugs/are involved in the drug trade more vulnerable to violence.

In addition, concerns were raised about structural gender discrimination in the prison system. Many of the CSOs that we engaged with expressed concerns that prisons were not meeting women's gender-specific needs.¹⁸² For example, while women may be housed in separate blocks from male prisoners, they may still have to exercise in the same spaces as men, where they could be subject to harassment.¹⁸³ Pregnant women who are imprisoned for drug offences can be forced to give birth in prison, and not all institutions are able to meet the needs of pregnant mothers or young children.¹⁸⁴ For mothers who are incarcerated for drug offences, there may not be sufficient infrastructure for their children to visit them in prison.¹⁸⁵ These problems can also have negative mental health impacts: one CSO reported that female prisoners face greater risks of suicide, self-harm and mental ill-health than male prisoners.¹⁸⁶ In addition, transgender people may face additional forms of discrimination in prison, with one CSO noting that transgender women can be held in male prisons and have their heads shaved while in detention.¹⁸⁷

4.2.3 Impacts on offenders' families and children

As well as direct impacts on affected individuals, the impacts of the punitive regime can spill over to others, notably the families and children of drug offenders. Civil society respondents cited statistics indicating that almost all (96%) narcotics inmates in Indonesian prisons have a family, but noted that there is currently no state provision to provide support for their families during the time of their incarceration.¹⁸⁸ This means that incarceration can have significant financial impacts for the families of offenders, impacts which are likely to be most keenly felt by those of lower socioeconomic status. Given that the majority of those incarcerated for

¹⁷⁹ Rumah Cemara.

¹⁸⁰ Stoicescu and Pantelic, *Women who use drugs in Indonesia* (n 112).

¹⁸¹ Stoicescu and others, '[Intimate partner violence and HIV-related sexual risk behaviour](#)' (n 72).

¹⁸² Rumah Cemara; Suar Perempuan Lingkar Napza Nusantara.

¹⁸³ Suar Perempuan Lingkar Napza Nusantara.

¹⁸⁴ Karisma.

¹⁸⁵ Suar Perempuan Lingkar Napza Nusantara.

¹⁸⁶ LBH Masyarakat.

¹⁸⁷ Suar Perempuan Lingkar Napza Nusantara.

¹⁸⁸ Rumah Cemara; Karisma.

drug-related offences in Indonesia are men, the burden of these financial effects will often fall upon female partners.¹⁸⁹ For both men and women, partners are reported to often threaten divorce in response to their prison sentence, meaning that incarceration can lead to family breakdown.¹⁹⁰

The children of drug offenders can face specific impacts from the punitive regime, notably through secondary stigmatisation. Several CSOs noted that the stigma applied to people who use drugs /drug offenders applied vicariously to their children.¹⁹¹ It was reported, for example, that the children of female drug offenders could experience social ‘shunning’.¹⁹² In school settings, one civil society respondent stated that: “*The impact is very extraordinary, it affects the development of the children as well.*”¹⁹³ In one case involving the mother of a young child, her incarceration was noted as being likely to result in gossip and stigmatisation for her children in the future.¹⁹⁴ In another case involving a father with young children who was incarcerated for drug offences, his wife chose to hide the situation from their children to protect them from the psychological impacts that could arise from this knowledge.¹⁹⁵

As well as these secondary impacts on families and children, the existing drug policy regime in Indonesia also directly criminalises the families of people who use drugs through the presence of a ‘compulsory reporting system’. Under Law 35/2009, in conjunction with Regulation 25/2011,¹⁹⁶ failure to report people who use drugs to a compulsory reporting institution for rehabilitation treatment is an offence. This scheme applies to people who use drugs as well as to their families. For failure to comply with compulsory reporting, people who use drugs face up to six months’ imprisonment or a fine of two million IDR, while their families face up to three months’ imprisonment (or six months where the person using drugs is a minor) and fines of up to one million IDR.¹⁹⁷ This system therefore implicates the families of people who use drugs, who also become subject to the punitive response, and risks making people who use drugs more likely to hide drug use from their families, in order to avoid their own criminalisation and to protect their families. Such deceit militates against help-seeking and reduces the chances of them being supported by families, thereby increasing their risk of further harms. Furthermore, those who do self-report may nonetheless end up being criminalised: a 2017 study found that 75.8% of the study sample who had self-reported were prosecuted despite complying with the compulsory reporting scheme.¹⁹⁸

¹⁸⁹ Suar Perempuan Lingkar Napza Nusantara.

¹⁹⁰ Suar Perempuan Lingkar Napza Nusantara.

¹⁹¹ LBH Masyarakat.

¹⁹² Karisma.

¹⁹³ AKSI Keadilan.

¹⁹⁴ LBH Mawar Saron.

¹⁹⁵ Rumah Cemara.

¹⁹⁶ LBH Masyarakat, ‘[The trip to nobody knows where](#)’ (LBH Masyarakat, 28 April 2016).

¹⁹⁷ Law 35/2009 on Narcotics (Indonesia) art 134.

¹⁹⁸ Ajeng Larasati, Dominggus Christian and Yohan Misero, [Mapping Out Drug Dependency Treatment in Indonesia](#) (LBH Masyarakat 2017); Arif Rachman Iryawan, *Clients’ perspectives on drug rehabilitation, referrals from the legal process in the Greater Jakarta Area* (AKSI/UNAIDS 2021).

4.2.4 The effects of incarceration

Notably, we found through our discussions with CSOs that the process of incarceration itself may serve to encourage closer relationships between prisoners and the illicit drug trade. It was reported by CSOs that it is possible to buy, use or trade narcotics within the prison system in Indonesia,¹⁹⁹ creating both a potential pathway into drug use and from prior drug use to drug dealing. Those who are incarcerated for non-drug-related offences may therefore be exposed to drug use while in prison, which increases risk of exposure to HIV and other blood borne viruses.²⁰⁰ The drug trade was described as a way for prisoners to continue to make money to provide for their families outside of prison while they are incarcerated.²⁰¹ In one case study, a child who was incarcerated for theft received drugs from his mother to sell while he was inside the prison.²⁰² Prisoners may also continue to exercise control over drug trading operations beyond prison walls,²⁰³ with examples given of male prisoners controlling female partners in the outside world to provide for them through involvement in the drug trade or through engaging in sex work.²⁰⁴ These reports suggest that incarceration does not necessarily entirely disconnect individuals from the illicit drug trade. In fact, incarceration may instead escalate the extent of individuals' involvement in the drug trade.

In the context of significant prison overcrowding – itself driven by the punitive system and widespread use of incarceration for even drug use and possession offences²⁰⁵ – those incarcerated for lower-level drug offences, such as those related to drug use, can be held alongside those convicted of more serious drug offences. This could lead them to become more closely involved in drug networks, and effectively 'graduate' to drug dealing on their release from prison.²⁰⁶ The risk of incarceration encouraging greater involvement in the drug trade is heightened by the barriers presented by social stigma against drug offenders, preventing former prisoners from finding employment in the formal economy.²⁰⁷ Incarceration in the current context may provide both the personal contacts (through fellow prisoners) and economic incentives (through social stigma) to encourage economic reliance upon the illicit drug trade after release.

4.2.5 Rehabilitation and drug dependence treatment

Attempts have been underway in Indonesia to address some of the problems of the punitive approach through a drive towards greater use of rehabilitation treatment – yet the implementation of this model has also been markedly shaped by punitive characteristics. In Indonesia, drug dependence and rehabilitation treatment for

¹⁹⁹ LBH Masyarakat.

²⁰⁰ LBH Masyarakat; LBH Mawar Saron.

²⁰¹ AKSI Keadilan.

²⁰² LBH Masyarakat.

²⁰³ LBH Mawar Saron.

²⁰⁴ LBH Masyarakat; Suar Perempuan Lingkar Napza Nusantara.

²⁰⁵ AKSI Keadilan.

²⁰⁶ LBH Masyarakat.

²⁰⁷ LBH Masyarakat.

people who use drugs is incorporated into drug legislation through what is often termed a ‘restorative justice’ approach. As a broader concept, restorative justice is “*a philosophy oriented primarily towards the repair of harm rather than deterrence, rehabilitation or punishment.*”²⁰⁸ Restorative justice has been championed as a solution to many problems in the Indonesian criminal justice system, including prison overcrowding, and is named as a priority in the National Medium-Term Development Plan 2020–24.²⁰⁹ Restorative justice in drug cases is given effect through legislative provisions and regulations facilitating diversion to rehabilitation treatment, notably under Article 54 of Law 35/2009 which provides for referral to medical and/or social rehabilitation.²¹⁰ The potential for redirection to rehabilitation through judicial order is however narrowly focused on certain instances of drug use cases, restricted in law to those who are considered “*narcotics addicts*”²¹¹ or “*proven as the victim of narcotics abuse*”,²¹² and contingent on whether individuals are charged under the relevant provisions to be eligible for rehabilitation.²¹³

Rehabilitation treatment is offered through a variety of government-run institutions and private centres, generally using abstinence-based models involving lengthy prescribed periods of several months of in-patient treatment, taking a narrow approach to treatment which lacks recognition of harm reduction approaches.²¹⁴ Stoicescu (2015) has described the use of facilities “*rang[ing] from medical detox in hospitals and 12-step programs, to religious or spiritual centres that boast ‘curing’ drug dependence using magic, prayer, beatings, and shackling drug users in cages with a ball and chain.*”²¹⁵ According to the National Narcotics Board (BNN), 43,320 individuals underwent some form of rehabilitation treatment in Indonesia in 2021.²¹⁶ Through a Joint Regulation of 2014, a BNN-led assessment mechanism, the Integrated Assessment Team (TAT), was established for evaluating eligibility for rehabilitation, and makes recommendations on eligibility based on input from medical, psychosocial and legal analysts.²¹⁷ A judicial order for rehabilitation treatment, rather than incarceration, is reliant on the outcome of a completed assessment from the TAT recommending rehabilitation. As well as referral to rehabilitation through judicial order, diversion can also occur at earlier stages of the criminal

²⁰⁸ Carolyn Hoyle, Richard Young and Roderick Hill, *Proceed with caution: An evaluation of the Thames Valley Police initiative in restorative cautioning* (Joseph Rowntree Foundation 2002) 1.

²⁰⁹ Republic of Indonesia, *The National Medium-Term Development Plan for 2020-2024* (Republic of Indonesia 2020) VIII.16.

²¹⁰ Law 35/2009 on Narcotics (Indonesia) art 54. Relevant regulations and guidelines governing restorative justice include *inter alia*: Joint Regulation of 2014 regarding handling of narcotics addicts and victims of narcotics abuse into rehabilitation institutions; Police Regulation Number 8 of 2021 regarding handling of criminal acts based on restorative justice; Attorney General’s Regulation Number 15 of 2020 regarding termination of prosecution based on restorative justice; Decision of Director General of Judicial Administrative Affairs of the Supreme Court Number 1691/DJU/SK/PS.00/12/2020 regarding application of guidelines for implementing restorative justice. Under Police Regulation Number 8 of 2021, those who are eligible for restorative justice are those who: apply for rehabilitation; during arrests, are found to carry one-day usage of drugs or do not carry drugs, but have positive urine tests; are not involved in drug trafficking; have undergone assessment; and are willing to cooperate with law enforcement agencies.

²¹¹ Law 35/2009 on Narcotics (Indonesia) art 103.

²¹² Law 35/2009 on Narcotics (Indonesia) art 127(3).

²¹³ Only charges under Article 127 are eligible for diversion to rehabilitation at trial.

²¹⁴ National Narcotics Board of Indonesia (BNN), *Indonesia Country Progress Report on Drug Control* (2014) Paper presented at: ASEAN Inter-Parliamentary Assembly, 11th meeting of the AIPA fact-finding committee to combat the drug menace, 12–16 May 2014, Vientiane, Laos.

²¹⁵ Stoicescu, ‘[Forced rehabilitation of drug users in Indonesia is not a solution](#)’ (n 29).

²¹⁶ National Narcotics Board of Indonesia (BNN), *Indonesia Drugs Report 2022* (BNN 2022) 29.

²¹⁷ Sinaga, ‘[The crisis of overcrowded prisons in Indonesia](#)’ (n 1) 3.

process,²¹⁸ and individuals may also be sent to undergo rehabilitation as a result of the compulsory reporting system (noted in Section 4.2.3 above). A 2016 study of women who inject drugs in Indonesia found that among those who had previously undergone rehabilitation treatment, 60% of admissions resulted from reporting by family members/employers via the compulsory reporting system; 36% resulted from voluntary self-admission and only 4% resulted from referral via judicial order.²¹⁹

In practice, civil society respondents reported that the assessment process for rehabilitation did not always operate as expected. In one case study involving four individuals supported by one of the CSOs, despite completed assessments with TAT recommendations for rehabilitation, the panel of judges determining the case decided against rehabilitation and sentenced all four to prison instead.²²⁰ Other inconsistencies included the completion of the assessment process by rehabilitation centres, rather than by the TAT as required,²²¹ and referral to rehabilitation without the completion of any assessment at all. Taken together, such arbitrariness means that those genuinely seeking treatment may not be referred, while those who do not need treatment may be. CSOs also reported the need for individuals to pay to have assessments conducted, which could further exacerbate the socioeconomic disparities of the drug policy regime.²²² In the words of one CSO representative, *“the problem is that not everyone who is involved in narcotics cases can use the TAT mechanism. Only those with deep pockets. But the majority of the poor cannot, and this then creates inequality.”*²²³ In a 2020 study of judicial perspectives on drug offending in Indonesia, some members of the judiciary agreed that the requirement to pay for assessments meant that it was easier for wealthier defendants to receive rehabilitation, while poorer defendants did not have the option to avoid the criminal process and likely imprisonment.²²⁴ In the words of one judge:

*“The current problem relates to the requirement for doing rehabilitation. ... On the one hand, all the requirements for rehabilitation should be met. On the other hand, the offender should pay for the assessment. For those who become the victim of their circumstance and economically poor as beggars, they should receive rehabilitation. However, due to the challenges to meet the requirement for receiving rehabilitation, there is no other choice for those poorer offenders than having to accept imprisonment. However, for those wealthy offenders, they receive rehabilitation no matter how large the quantity of drug evidence.”*²²⁵

²¹⁸ For example, Police Regulation Number 8 of 2021 facilitates diversion to rehabilitation without trial, terminating the investigation in the case, contrary to original requirement for judicial order.

²¹⁹ Claudia Stoicescu, *Women speak out* (n 177).

²²⁰ AKSI Keadilan.

²²¹ Rumah Cemara.

²²² AKSI Keadilan.

²²³ LBH Masyarakat.

²²⁴ Mustafa, Malloch and Hamilton-Smith, [‘Judicial perspectives on the sentencing of minor drug offenders in Indonesia’](#) (n 105) 303–4.

²²⁵ Mustafa, Malloch and Hamilton-Smith, [‘Judicial perspectives on the sentencing of minor drug offenders in Indonesia’](#) (n 105) 303–4.

Whether referred for rehabilitation with an appropriate assessment or without, it was reported that individuals are often unable to refuse treatment, and once undergoing rehabilitation, are generally not permitted to leave by their own discretion nor to appeal the referral. On this basis, rehabilitation under the restorative justice system in Indonesia can lead to compulsory treatment,²²⁶ which is defined by Stoicescu (2023) as:

"...a form of custodial confinement in which perceived or known people who use drugs are placed to undergo forced drug abstinence for a pre-determined time period, often without adequate due process or the option to refuse admission or leave the treatment programme without incurring punishment."²²⁷

In research studies, compulsory treatment has been linked to human rights abuses, greater likelihood of reoffending and future drug use, and increased health risks,²²⁸ with Wheeldon and Heidt (2022) describing it as *"[undermining] autonomy, agency, and respect, which are the values that form the basis of therapeutic relationships."*²²⁹ In one case study provided by a CSO, four young men were arrested when trying to purchase methamphetamine, but due to lack of evidence for a criminal trial were instead sent directly to a rehabilitation centre against their wishes.²³⁰ In another example, discussed above in section 4.2.2, a woman reported her male partner to the police due to violence towards her, but in response her partner told the police that she was a drug user, resulting in her referral for compulsory rehabilitation treatment without further investigation of her allegations of violence.²³¹

Respondents also shared allegations of corruption in the process of diversion to rehabilitation, with the 'restorative justice' process described as creating new opportunities for corrupt practices and extortion. CSOs cited examples of requests for payments at various stages of the rehabilitation referral process, including to be referred for rehabilitation rather than facing the criminal process, to avoid referral for rehabilitation or to leave once at a rehabilitation centre. In particular, it was alleged that some police investigators colluded with private rehabilitation centres in order to extort individuals and their families, who were required to make *"exorbitant"* payments for their time spent in the centres.²³² One representative explained that: *"Almost all referrals from the police are given to rehabilitation centres that collaborate with the local police. Based on the reports we*

²²⁶ Stoicescu, Peters and Lataire defined this as arising where "...individuals are denied the unconditional right to refuse treatment; if the process for ordering treatment is conducted without due process protections; or if the conditions of treatment violate human rights, including the denial of evidence-based drug treatment and related health and social support services." Claudia Stoicescu, Karen Peters and Quinten Lataire, '[A slow paradigm shift: Prioritizing transparency, community empowerment, and sustained advocacy to end compulsory drug treatment](#)' 24(1) Health and Human Rights 129.

²²⁷ Expert briefing by academic consultant Dr Claudia Stoicescu (2023, on file with author, citing: United Nations Office on Drugs and Crime (UNODC) and United Nations Programme on HIV/AIDS (UNAIDS), '[Compulsory drug treatment and rehabilitation in East and Southeast Asia](#)' (UNODC and UNAIDS 2022) 1.

²²⁸ Anh T Vo and others, '[Assessing HIV and overdose risks for people who use drugs exposed to compulsory drug abstinence programs \(CDAP\): A systematic review and meta-analysis](#)' (2021) 96(103401) International Journal of Drug Policy; Dan Werb and others, '[The effectiveness of compulsory drug treatment: A systematic review](#)' (2015) 28 International Journal of Drug Policy 1.

²²⁹ Johannes Wheeldon and Jon Heidt, '[Cannabis, coerced care, and a rights-based approach to community support](#)' (2022) 24(2) Health and Human Rights 115, 115.

²³⁰ Karisma.

²³¹ Suar Perempuan Lingkar Napza Nusantara.

²³² Suar Perempuan Lingkar Napza Nusantara.

received, most of these rehabilitation centres charge very high rates for treatment and do not provide appropriate treatment.”²³³ Other research studies in recent years have reported similar issues of corruption and extortion in the rehabilitation diversion process in Indonesia.²³⁴

The implementation of the restorative justice model for drug offences appears to vary significantly across Indonesia, with fragmented responsibilities and differing approaches across institutional actors.²³⁵ Given the limited guidance provided within the relevant provisions of Law 35/2009, a complex tapestry of regulations has emerged, applying to differing extents across different settings, with bodies including BNN, the Indonesian National Police (INP), the Ministry of Health, the Ministry of Social Affairs and private rehabilitation centres, among others, bearing responsibility for implementation.²³⁶ One CSO representative stated that there was no common understanding of restorative justice among law enforcement officials, and a lack of coordination between law enforcement bodies on implementation.²³⁷ A recent study found significant differences in implementation of the restorative justice model among local police authorities in three Indonesian cities.²³⁸ These differences create further risk of arbitrariness, with similar cases potentially resulting in very different outcomes in different locations, depending on the approaches to restorative justice taken by officials.

Given these issues, the way the restorative justice model is currently implemented appears to create the risk that, rather than reducing the impacts of the punitive approach, the most socioeconomically excluded are again subject to the harshest impacts. Furthermore, given the lack of consent, inconsistent application due to fragmented implementation, and reported corruption/extortion, the model appears to conflict with some core principles of the philosophy of restorative justice as commonly understood. In principle, providing access to rehabilitation treatment is an important policy objective, yet in this context it remains embedded within a criminal justice system defined by the punitive approach to drug policy. Overall, the retributive model remains the dominant one in drug use cases, with the majority of defendants at trial stage sentenced to imprisonment rather than referred for rehabilitation.²³⁹ As one CSO representative stated, “[Indonesia’s] current laws and regulations still give precedence to punishment rather than treatment.”²⁴⁰

²³³ Rumah Cemara.

²³⁴ Larasati, Christian and Misero, *Mapping Out Drug Dependency Treatment* (n 198); Arif Rachman Iryawan, *Clients’ perspectives on drug rehabilitation, referrals from the legal process in the Greater Jakarta Area* (AKSI/UNAIDS 2021).

²³⁵ Sinaga, *The crisis of overcrowded prisons in Indonesia* (n 1) 2.

²³⁶ e.g. Joint Regulation of 2014 regarding handling of narcotics addicts and victims of narcotics abuse into rehabilitation institutions; Police Regulation Number 8 of 2021 regarding handling of criminal acts based on restorative justice; Attorney General’s Regulation Number 15 of 2020 regarding termination of prosecution based on restorative justice; Decision of Director General of Judicial Administrative Affairs of the Supreme Court Number 1691/DJU/SK/PS.00/12/2020 regarding application of guidelines for implementing restorative justice; BNN Regulation Number 24 of 2017 on rehabilitation standards for drug addicts and victims of drug abuse.

²³⁷ Suar Perempuan Lingkar Napza Nusantara.

²³⁸ Karisma.

²³⁹ Purcell, ‘*Indonesian drug policy under scrutiny*’ (n 40).

²⁴⁰ Suar Perempuan Lingkar Napza Nusantara.

5. Conclusions

This report is intended to address a knowledge gap regarding the pathways to criminalisation of the many thousands of people incarcerated for drug offences in Indonesia each year, and to what extent the punitive approach may have disproportionate impacts based on socioeconomic factors: who in society is most affected, and how. Research of this kind is particularly important given the dominant role of deterrence theory in underpinning the punitive approach to drug policy in Indonesia: the belief that appropriately harsh sentences will deter individuals from participation in drug offending. While this brief study can only provide a partial picture, its findings have highlighted key socioeconomic factors linked to criminalisation for drug offending, demonstrating the limits of a deterrence-based punitive approach based on assumptions of rational individual-level decision-making.

The first part of the report's central socioeconomic analysis, on pathways to criminalisation, found that those who face greater degrees of socioeconomic exclusion appear more likely to be subject to criminalisation for drug offending. Our findings indicated that those *criminalised* for drug offending generally only had low to average educational backgrounds and that criminalisation may particularly affect those who are unemployed or only precariously employed. For those involved in drug dealing, perceptions of economic opportunity were highlighted as a key motivation for some, including to provide for their dependents, while others (especially women) may be involved due to exploitation. Respondents made clear that drug use and involvement in the drug trade occurred across social strata in Indonesia, but that those of lower socioeconomic status were overrepresented in the criminal justice system, whereas those of higher socioeconomic status were considered to have a greater ability to avoid arrest or negotiate criminal justice processes.

The second part of the central socioeconomic analysis, on the socioeconomic effects of the punitive approach, found that those who face greater degrees of socioeconomic exclusion also faced greater socioeconomic impacts from the existing drug policy regime. Concerns about stigmatisation of drug offenders were emphasised by civil society respondents, with punitive state responses generating further stigma and discrimination intersecting with social inequalities such as poverty. Women were reported to face much greater stigma than men. The effects of stigma were reported to constitute barriers to employment, leading to exclusion from the licit economy. Findings indicated that incarceration itself may serve to encourage closer relationships between prisoners and the drug trade, with contacts gained through imprisonment and stigma-based barriers to employment combining to encourage economic reliance upon the drug trade after release from prison. The impacts of the punitive regime were also found to spill over to others, notably the families (e.g. through the compulsory reporting system) and children (through secondary stigmatisation) of drug offenders.

In recent years, 'restorative justice' solutions have been championed as a solution to many of the problems arising from the punitive approach, principally through diversion of some drug use cases to rehabilitation treatment. However, we found that this model has been shaped by the punitive characteristics of the wider system. Problems were reported with the assessment process for rehabilitation, including imprisonment despite recommendations for rehabilitation; assessments not being properly completed; diversion to rehabilitation without assessment; and a need to pay for assessments to access rehabilitation, which could exacerbate socioeconomic disparities. Concerns over compulsory treatment arise due to the inability to refuse treatment, leave rehabilitation centres or appeal referral to rehabilitation, and respondents shared allegations of corruption and extortion in relation to referral processes. While providing access to rehabilitation is clearly an important policy objective, in its current form the model conflicts with core principles of restorative justice philosophy and risks reproducing, rather than reducing, the socioeconomic disparities of the punitive approach.

Given the persistence and growth of the illicit drug trade in Indonesia and across the wider region, the deterrence-based punitive model appears to have been unsuccessful on its own terms, as acknowledged by official statements on the inadequacies of existing legislation in relation to the prison overcrowding crisis. Beyond its failure as a means to control the drug trade, this report has highlighted a variety of risks and harms resulting from the punitive approach, which are likely to fall most heavily on those in society who already face the most socioeconomic exclusion. As consultations continue on legal reforms in Indonesia, research such as that provided by this report and conducted by other experts and civil society groups in this area can help to inform evidence-based drug policy which takes account of its societal impacts. Given the direction of international drug policy regimes in shifting rapidly towards human rights-based and health-oriented approaches, bringing Indonesian drug policy into line with these contemporary approaches would help to reduce the disproportionate impacts of the current approach on the poorest in society.

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Further details of the DPRU and the DPP's research on drug policy, deterrence and punishment in Southeast Asia can be found on the [University of Oxford website](#).