

Prepared by INGO WHRIN and NGO AKSI for submission to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) for 79th Session.

SHADOW REPORT

“Addressing the situation of women who use drugs in Indonesia”

Indonesia

2021

EXECUTIVE SUMMARY

This shadow report describes the situation of women who use drugs (WUD) in Indonesia. It was prepared by the Women and Harm Reduction International Network (WHRIN), based on literature review and research conducted by AKSI (Indonesia Act for Justice).

The report includes information about institutionalized discrimination and violations of the rights of WUD including gender-based violence, access to health, education and employment, parental custody rights, sexual and reproductive health rights and the violence of law enforcement (including disproportionate sentencing, extortion and incarceration).

Urgent steps must be taken to address the risks of violence faced by WUD as well as to remove systemic barriers to human rights, access to essential health services and safety.

To date the government has ignored CEDAW violations impacting WUD as summarized in this report.

We call upon the Committee to urge **the Government of the Republic of Indonesia to:**

- ❖ reform the narcotics policy from a prohibitionist to a health-oriented, humane and gender sensitive approach, in line with all CEDAW articles, and
- ❖ take all reasonable steps to reduce discrimination and systemic violence against WUD – including those living with HIV, involved in sex work, in prison and/or who are gender non-conforming.

Acronyms

AKSI	= Aksi Keadilan Indonesia (Indonesia Act for Justice)
APH	= Aparat Penegak Hukum (Police Officer and Legal Sector)
ATS	= Amphetamine Type Stimulants
BNN	= Badan Narkotika Nasional (National Narcotics Board)
FGD	= Focus Group Discussion
GBV	= Gender Based Violence
HCV	= Hepatitis C Virus
HIV	= Human Immunodeficiency Virus
IEC	= Information, Education, Communication
ICJR	= Institute for Criminal Justice Reform
IPWL	= Institusi Penerima Wajib Lapor (The Compulsory Report Institution)
KDRT	= Kekerasan dalam Rumah Tangga (domestic violence)
KHI	= Kompilasi Hukum Islam (Compilation of Islamic Law)
KUHP	= Kitab Undang-undang Hukum Pidana (Criminal Code)
LBHM	= Lembaga Bantuan Hukum Masyarakat (Community Legal Aid Institution)
LIPI	= Lembaga Ilmu Pengetahuan Indonesia (the Indonesian Institute of Sciences)
NSP	= Needle Syringe Program
NPM	= National Preventive Mechanism
OAT	= Opiate Agonist Therapy
OPCAT	= Optional Protocol to the Convention against Torture
P4GN	= Pencegahan dan Pemberantasan Penyalahgunaan dan Peredaran Gelap Narkotika (Prevention and Eradication of the Abuse and Illicit Narcotics)
PUD	= People who Use Drugs
PKNB	= Persaudaraan Korban Napza Bogor (Bogor Drug User Network)
PTRM	= Program Terapi Rumatan Methadone (Opiod Subtitution Therapy)
SKBN	= Surat Keterangan Bebas Narkoba (a 'drug free' certificate)
TAT	= Tim Assessment Terpadu (Integrated Assessment Team)
WUD	= Women who use drugs

INTRODUCTION

More than 1 million women use illicit drugs in Indonesia but they have been ignored by existing policy.¹ At the same time, the nation has limited under-scale NSP and OAT, with no peer naloxone distribution or safe consumption rooms.² Women who use drugs (WUD) are subject to high rates of violence, stigma and discrimination. As drug use is a highly stigmatized activity and criminalized with harsh penalties, reaching WUD with essential services is challenging.

Indonesia's drug policy emphasizes a punitive approach, even though this attracted wide criticism for attendant human rights violations. Law No. 35/ 2009 maintains the criminalization of drug use with a maximum penalty of death and makes little distinction between drug traffickers and people who use drugs (PUD). Meanwhile, overcrowded prisons are associated with poor ventilation and inadequate sanitation and nutrition, creating risks for the spread of HIV, tuberculosis, hepatitis and now COVID.³ Across the globe, and not least in Indonesia, the failure of the war on drugs has come at an enormous cost to women.⁴ As drug use is generally regarded as a criminal and moral problem, prohibition has extensive support from society and the State for a harsh law enforcement approach, impacting women heavily and in unique gendered ways, some of which are unpacked in this report.

1. Massive incarceration of women who use drugs (Art. 1, 2, 10, 11, 12, 13, 16)

1.1 Gender blind drug policy

Indonesia's prohibition-based drug policy is punitive and based on a rigid interpretation of the UN drug conventions. Criminalization can impact those who buy, sell, use, distribute, carry, control, and possess drugs.⁵ Punishments are severe, ranging from a minimum of two years to the death penalty. Criminal law can be imposed even on parents⁶ who know their child is using drugs but fail to report this to the State.⁷ Drug offences in Indonesia are categorized as a 'special crime' along with corruption and terrorism, which the government often presents as "extraordinary crimes", thus enabling harsh sentencing.⁸

The number of women convicted of drug offences in Indonesia has increased rapidly. In 2016, for example, an increase in the number of women in prison reached 19.5%, of whom 65.5% were convicted for drug offences.⁹ In addition, women sentenced to death in drug cases also dominated the total number of women sentenced to death, namely 18 out of 22 women. According to a report from the Indonesia Criminal Justice Reform (ICJR), the majority of women sentenced to death for drug offences are single mothers with a context of economic hardship and an underprivileged background, women victims of

¹ The Oxford Social Sciences Division, "Women Speak Out: Collaboration Brings Drug-dependent Women's Rights to the Forefront", retrieved in January 2021, from <https://www.socsci.ox.ac.uk/women-speak-out> .

² Harm Reduction International. *Global State of Harm Reduction*. (2020), retrieved from <https://www.hri.global/global-state-of-harm-reduction-2020>

³ Shanti Riskiyani, "'Feels (Not) Like at Home': Perlakuan di Lapas, Interaksi Sosial dan Harapan Pengguna Narkoba Mantan Narapidana", *Jurnal Etnosia*, retrieved from <https://journal.unhas.ac.id/index.php/etnosia/article/view/997/629>

⁴ Malinowska-Sempruch K, Rychkova O "The impact of drug policy on women", *Open Society Foundations New York, NY; 2015 Jurnal Etnosia*. Vol. 01, No. 01, June

⁵ See Indonesia Law No. 35 Year 2009, concerning Narcotics.

⁶ *ibid*.

⁷ See Law No. 35, 2009, concerning Narcotics, Article 78.

⁸ Fatima M. (1 March 2019.) "*The Destructive Power of Drugs is more Powerful than Corruption and Terrorism*", *Berita Satu*, retrieved from <https://www.beritasatu.com/nasional/541097/daya-rusak-narkoba-lebih-dahsyat-daripada-korupsi-dan-terorisme>

⁹ Arinta D. & Permata A. (2019). "The Neglected Situation of Women Imprisoned for Drug Offenses", *LBHM*, Page. 4.

exploitation by men, husbands, spouses, or drug syndicates, and/or experienced violations of the right to fair trial during their legal process.¹⁰

Similarly, the Community Legal Aid Institute (LBHM) reported in 2017 that factors for women's involvement in drug trafficking include: being forced by a partner, being ordered, being entrusted with goods, poverty and being paid a wage.¹¹ LBHM findings suggest some women use amphetamines because of the double burden they carry. The women, some of whom are single mothers, have to work for a living for an average of 12 hours each day.¹² Women also have to take care of the house and their children before leaving and returning from work. Some women report amphetamines help them carry out their everyday burdens. The economic imperative often found behind involvement of women in drug trade has been recognized by the National Narcotics Body (BNN) and other government agencies.¹³ Despite the rising numbers of women incarcerated for drug offences, their characteristics and gender-specific needs have largely been unrecognised and ignored by decision makers in the implementation of drug laws and within the criminal justice system.¹⁴ This clearly contradicts the provisions of CEDAW including Article 15 and General Recommendation No. 33 on women's access to justice.

1.2 Violence against women who use drugs the legal process

The Narcotics Law, which has multiple interpretations and overlaps, remains open in practice for law enforcement officials (APH) to commit extortion/corruption. When women are arrested for possession of illicit drugs, the police have the power to either implement criminal sanctions or refer to rehabilitation institutions. Indonesian WUD are accordingly at risk of multiple levels of violence. A recent study sampling 731 WUD in Indonesia reported that 86.9% had experienced extortion for money and/or sexual favours in return for a lesser charge. 60% of women who came into contact with law enforcement experienced verbal abuse (insulted, called names, berated or put down), 27% experienced physical violence (slapped, punched, kicked or beaten), and 5% experienced sexual violence (forced to have vaginal or anal sex, perform oral sex, or non-consensually touched inappropriately in intimate areas).¹⁵ These acts constitute torture and ill treatment against female detainees/prisoners.

Similarly, Komnas Perempuan research on violence against women in detention concluded that imprisoned women face discrimination and layered violence including violence during the legal process, while in prison, and after serving a sentence.¹⁶

2017 research from LBHM showed that 25% of women who have been sentenced for drug offences report torture largely committed by police.¹⁷ AKSI data shows that most women who use drugs experience

¹⁰ Rachmawati M. (26 June 2019). "Indonesian Drug Policy Has Abandoned Women", Institute Criminal Justice Reform (ICJR), retrieved from <https://icjr.or.id/kebijakan-narkotika-indonesia-tumbalkan-perempuan/>

¹¹ Arinta D. (15 April 2018). "Women in the Snare of Drugs Syndicate", LBHM, retrieved from <https://lbhmasarakat.org/seri-monitor-dan-dokumentasi-2018-perempuan-dalam-jerat-sindikata/>

¹² Permata A. & Misero, Y. (December 2020). "Drugs Use Among Women", LBHM, Page.15 retrieved from <https://lbhmasarakat.org/wp-content/uploads/2020/12/Laporan-Penelitian-Penggunaan-Narkotika-pada-Perempuan-LBHM.pdf>

¹³ Badan Narkotika Nasional. (8 June 2015). "Women Exploited in Illicit Drug Trafficking", BNN, retrieved from <https://bnn.go.id/eksploitasi-perempuan-dalam-peredaran-gelap-narkotika/>

¹⁴ Alvarez M. (2019). Women, incarceration and drug policy in Indonesia. Promoting humane and effective responses. IDPC, LBHM.

¹⁵ Stoicescu C. (May 2021). "Collateral damage. Is drug use criminalization bad for health? Exploring the impact of drug policing on the health of women who use drugs in Indonesia". University of Oxford.

¹⁶ Komnas Perempuan. (2015). "Mapping Out Violence against Women in Correctional and Close Setting Institution", Page. 120.

¹⁷ Ibid.

extortion at the hands of unscrupulous law enforcement officers and unprofessional rehabilitation staff. While providing assistance in prisons, AKSI also witnessed inmates not being given food for three days and surviving only on supplies that their families delivered. This negatively impacts the health and psychology of women in prison and their families while affording the APH an extortion income stream from distraught families.¹⁸

In FGDs with 23 women who use drugs conducted by AKSI in 2020, several WUD said that they had experienced discrimination and violence while in closed settings. One woman said that it was difficult to access neonatal services while in prison. The prison authorities do not make efforts to provide for the nutritional needs for pregnant women. One of the informants said that she was forced to give birth in prison because the authorities were late in giving her permission to give birth at a community health service center.

"When I was about to give birth, my friends and I tried to ask for help from the prison guards but did not get access to give birth outside of prison. Finally, I was forced to give birth in the prison hallway assisted by one of the prisoners who is a midwife. Prison guards supervised the delivery process until it was over. After the process went smoothly, the warden only asked to clean the remaining blood from the delivery. The next day my baby and I had to be separated because I was going to be transferred to another prison".¹⁹

An interview with L.A., a prison filmmaker, revealed many obstacles that WUD face while they are pregnant. During the filming, L.A. found pregnant and breastfeeding women received no neonatal care and insufficient nutrition. Officials featured in the documentary spoke of this factor as acceptable "to provide a deterrent effect."

"Food is far from the needs of pregnant and lactating women. The milk is released only briefly, at most three months, after which it is dry. My child only drinks breast milk for a while, then drinks formula milk" said S.L., a former prisoner at the women's prison in Pondok Bambu.²⁰

Women's prisons in Indonesia are characterized by poor sanitation, overcrowding, lack of clean water, shortages of sanitary napkins and period pain medication, and a general lack of access to sexual and reproductive health and harm reduction services. Women in prison suffer especially if they are placed far from their homes, making it difficult for their relatives to visit.²¹

In Indonesia, the operation of the correctional system is regulated under Law no. 12 of 1995 (Correctional Law).²² The correctional system is intended towards self-improvement of the prisoners and the integration of individuals in the community.²³ Even though the aim may be well intentioned, the law can be said to be gender-blind. There are no specific rules or articles that address women's needs and realities.

¹⁸ Based on survey conducted AKSI (Indonesia Act for Justice) November – December 2020.

¹⁹ Story from WUD. FGD conducted by AKSI, Dec 2020.

²⁰ Ibid.

²¹ Ibid.

²² Lihat Pertimbangan Undang-Undang NO. 12 Tahun 1995 Tentang Pemasarakatan (UU Pemasarakatan), available at <http://bphn.go.id/data/documents/95uu012.pdf>

²³ Ibid.

This is exacerbated by policy makers and prison officers who are not gender sensitive²⁴ so the rules and policies developed to deal with prisoners are not responsive to women's needs.²⁵ Despite CEDAW article 12, there is also no specific regulation for sexual reproductive health access in prison.

1.3 Access to Health Services in Prisons

Despite cost and lack of efficacy, there have been two prime approaches to drug use in Indonesia: criminal charges or forced rehabilitation. Forced rehabilitation is established in article 54, 103, 127 paragraph 3, and 129 paragraph 3. A large proportion of Indonesia's 240 000 prisoners (including 11,465 women²⁶) are people who use drugs.²⁷ A precise figure is obscured by Indonesia's drug laws where a person who possesses drugs may be classified as a seller rather than a consumer. According to the findings of LBHM in 2017, 30% of imprisoned women were simple possession cases, 24% selling, 16% delivering and 8% buying²⁸.

Harm reduction services are only available in a small number of prisons and only cover OAT. This also applies to harm reduction in other closed-settings, such as rehabilitation centres. In addition, the Indonesian Narcotics Control Board, which holds the main mandate on drug demand and supply reduction, focuses on punitive responses and the eradication of drug use and does not work on harm reduction. Civil society organisations continue to highlight the absence of efficacy marking this costly approach.²⁹

1.4 Impact of Imprisonment for Women Who Use Drugs

Komnas Perempuan findings stated that the impact and burden are heavy on WUD even after release from prison.³⁰ Most WUD have faced unfair trials, lack of legal aid, extortion, violence and depression. The situation is compounded by stigma and discrimination against WUD who are imprisoned as well as against their families. Imprisonment has long lasting negative impacts on WUD: difficulty securing employment, losing custody of children, not being accepted by their families, facing divorce etc.

LBHM found that 82% of women in prison for drug offences have children. Some of them decide to cut communication with their family members because they are desperate and cannot endure the sorrow and homesickness. Many of them experience self-stigma. LBHM also found cases of WUD who have attempted suicide. The Bangkok Rules makes recommendations for overcoming these problems and should be urgently implemented in Indonesia.

²⁴ Dhewy A. (2017). "Lilis Lisnawati: Regulations Related to Detention Center Is Not Gender Sensitive", *Jurnal Perempuan*, retrieved from <http://www.jurnalperempuan.org/warta-feminis/lilis-lisnawati-kebijakan-terkait-institusi-penahanan-belum-sensitif-gender>

²⁵ Ibid.

²⁶ Alvarez M. (2019). *Women, incarceration and drug policy in Indonesia*. Promoting humane and effective responses. IDPC, LBHM.

²⁷ Hasyim I. "There are 86 thousand drug offenders imprisoned", Ministry of Law and Human Rights: *Tempo.co*, retrieved from <https://nasional.tempo.co/read/896966/kemenkumham-jumlah-napi-narkoba-86-ribu/full&view=ok>

²⁸ Permata A. & Misero Y. (2020). "Drugs Use Among Women", LBHM, Page.15 retrieved from <https://lbhmasayarakat.org/wp-content/uploads/2020/12/Laporan-Penelitian-Penggunaan-Narkotika-pada-Perempuan-LBHM.pdf>

²⁹ Civil Society Representatives for Harm Reduction International. (2018). "Harm reduction funding situation in Indonesia: Consultant findings from Harm Reduction Investment Study" conducted with the Global Fund Harm Reduction Advocacy in Asia project.

³⁰ Komnas Perempuan. (2018). "Laporan Pemantauan Kekerasan Terhadap Perempuan dalam Pusaran Migrasi, Perdagangan Manusia dan Narkotika: Interseksi dan Penghukuman", retrieved from https://komnasperempuan.go.id/uploadedFiles/webOld/file/pdf_file/2020/Publikasi%202019/Laporan%20Pemantauan%20Kekerasan%20Terhadap%20Perempuan%20dalam%20Pusaran%20Migrasi%20Perdagangan%20Manusia%20dan%20Narkotika%20Interseksi%20dan%20Penghukuman.pdf

The Bangkok Rules

(Formally, the United Nations Rules for the Treatment of Female Prisoners and Non-custodial Measures for Women Offenders—adopted by the United Nations General Assembly in 2010.)

Rule 45

Prison authorities shall utilize options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.

Rule 46

Prison authorities, in cooperation with probation and/or social welfare services, local community groups and non-governmental organizations, shall design and implement comprehensive pre- and post-release reintegration programmes which take into account the gender-specific needs of women.

Rule 47

Additional support following release shall be provided to released women prisoners who need psychological, medical, legal and practical help to ensure their successful social reintegration, in cooperation with services in the community.^a

United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), reproduced in Economic and Social Council resolution 2010/16, annex, United Nations document E/RES/2010/16 (22 July 2010).

2. Access to health (Art, 1, 2, 12, 16)

There are many problems related to drug policy experienced by women connected with unbalanced socio-cultural gendered constructs. Although these artificial roles can be changed, the current context means that Indonesian women are not getting equal access, participation, control or benefits. Women who use drugs are particularly demonized for challenging gender stereotypes of women as demure domestic 'good' women, because of their drug use.

These issues are further compounded by illogical and unscientific drug policy. In principle, the right to health for people who use drugs must be based on scientific evidence. A punitive approach is shown to have no positive results nor impact on the level of drug use. The 2015 Annual Performance Report of BNN noted the prevalence of drugs use increased by 0.02% from 2014³¹. The increase in the number of people who use drugs from year to year demonstrates that the "war on drugs" prevention strategy is not effective.

Law Number 18 of 2014 concerning Mental Health states that drugs will have an impact on a person's psychosocial condition, so that in the perspective of the Mental Health Law, the state views all people

³¹ Badan Narkotika Nasional. (3 July 2019). "Survey of Illicit Drug Abuse and Trafficking in 2018", retrieved from https://www.academia.edu/38547373/EXECUTIVE_SUMMARY_SURVEI_PENYALAHGUNAAN_DAN_PEREDARAN_GELAP_NARKOBA_TAHUN_2018

who use drugs as needing rehabilitation. This is an unscientific basis as the vast majority of women who use drugs cannot be classed as drug dependent and do not require rehabilitation or treatment.³²

While gender disaggregated data is increasing, the recognition by authorities for the need of female specific services has not been recognised.

2.1 Gaps related to harm reduction for women

There are very few harm reduction services designed for women in Indonesia, with existing services largely designed for men. With resource constraints already painfully evident in this sector, there is a need for both increased domestic funding for harm reduction and the implementation of gender sensitive services³³.

Outreach for WUD through harm reduction programs is severely limited where ultimately women are often not included in the estimates of drug using populations and HIV prevalence. To address this gap, the Indonesian drug user network supported 'Women Speak Out', a peer-driven participatory study. This study looked at HIV-related vulnerability and barriers faced by WUD, and their access to health services. The findings confirmed that WUD have many unmet needs and are often neglected by existing harm reduction programs.³⁴

For example, OAT services have very rigid service hours presenting an obstacle for women who have domestic obligations. The issue of the sustainability of harm reduction services is important, especially given reduced funding support from international development partners and inadequate domestic funding for the current harm reduction program. Under these conditions, there is little prospect of building capacity for and availability of gender sensitive harm reduction services.

In the Gender Responsive Planning and Budgeting Guidelines document in the Field of Prevention and Eradication of Drugs Abuse and Illicit Drugs (P4GN)³⁵ designed by BNN and the Ministry of Women's Empowerment and Child Protection, it is stated that the State should prioritize information on prevention of drugs use towards men³⁶, because men are socially expected to have the role as backbone and leader of the family. This patriarchal mindset ultimately creates a gap in information about drugs between men and women. To make informed choices, women also have the right to know information about drugs, how to use them safely, the effects of drug use on women's biology, as well as information about harm reduction programs.

³² Ibid.

³³ For more detail on gender sensitive harm reduction services, see UNODC, "Addressing the Specific Needs of Women who Inject Drugs", International Network of People Who Use Drugs (INPUD), retrieved from https://www.unodc.org/documents/hiv-aids/2016/Addressing_the_specific_needs_of_women_who_inject_drugs_Practical_guide_for_service_providers_on_gender-responsive_HIV_services.pdf

³⁴ Stoicescu C. (2015). "Women's Voice: Understanding Women Who Inject Drugs in Indonesia", *Perempuan Bersuara*, Page. 17.

³⁵ Qomariyatus Sholihah, "Efektivitas Program P4GN terhadap Pencegahan Penyalahgunaan Napza", *Public Health Journal of Semarang State University*, retrieved from https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewiWu_79o6juAhUlggtFHcNTD9gQFjAOegQIFhAC&url=https%3A%2F%2Fjournal.unnes.ac.id%2Fnju%2Findex.php%2Fkemas%2Farticle%2Fview%2F3376&usg=AOvVaw12HV0iPmAJqxGOchL_J3MK.

³⁶ Badan Narkotika Nasional. (3 July 2019). "Survey of Illicit Drug Abuse and Trafficking in 2018", retrieved from https://www.academia.edu/38547373/EXECUTIVE_SUMMARY_SURVEI_PENYALAHGUNAAN_DAN_PEREDARAN_GELAP_NARKOBA_TAHUN_2018

WUD who want to have children commonly experience stigma, discrimination, coercion and violence, including in health services.³⁷ The impact of drug use on a fetus during pregnancy or among newborns is often overstated by the media and medical personnel. WUD may be coerced to have an abortion as a result of misinformation from health workers or media sensationalism.

WUD need to be accurately informed in an appropriate manner so that they can make informed decisions if they want to continue or stop using drugs; start substitution therapy; and if they want to continue with the pregnancy etc. Health workers should provide a comfortable environment for women to talk about drug use, so that WUD can access sexual and reproductive health rights and other essential services.

2.2 Rehabilitation is not gender responsive

Rehabilitation assistance for people who use drugs is defined in the Joint Regulation on the Handling of Drugs Addicts and Victims of Drugs Abuse into Rehabilitation Institutions issued in 2014.³⁸ Rehabilitation assistance also refers to Law No. 35 of 2009 concerning Drugs and Government Regulation No. 25 of 2011.³⁹ These two regulations are designed to divert drug users to rehabilitation services and, while in most cases it is a better option than prison, in other cases it can still be a form of “detention” with potential for extortion etc if the person cannot leave whenever they want to or if there isn’t sufficient due process. The situation is further compromised by the unregulated status and variability in quality of ‘rehabilitation’ in general in Indonesia. In addition, there are very few women-only facilities or child-friendly rehabilitation places.⁴⁰

There are only two rehabilitation centers in Indonesia that are specifically for women, the UPT Therapy and Rehabilitation of Lido, Sukabumi and the BNN Rehabilitation Center in Baddoka, Makassar. The remaining 500 centers are mixed gender or specifically for males.⁴¹ Both BNN and the Ministry of Women and Child Protection affirm that the gender gap in rehabilitation services is also reflected by the gender ratio of counselors in rehabilitation facilities.⁴² According to data from the BNN in 2012, out of 286 counselors, 93% were men.

In the P4GN Guidelines, the government identifies gaps in access to rehabilitation for women due to women's limited access to understanding rehabilitation and lack of socialization among women.⁴³ In reality, the lack of women's participation is moreover due to the lack of adequate and gender sensitive facilities.

³⁷ Referring statement from Grace on Act Plus Podcast, available at

<https://open.spotify.com/episode/OlgapMsUeqya5oYs9eFmao?si=vLTaH4NESTWp2B-ibEi8Zw>

³⁸ Arinta D. & Permata A. (2019). “The Neglected Situation of Women Imprisoned for Drug Offenses”, LBHM, Page. 65.

³⁹ Arinta D. & Permata A. (2019). “The Neglected Situation of Women Imprisoned for Drug Offenses”, LBHM, Page 4.

⁴⁰ Dhewy A. (31 March 2017). “Lilis Lisnawati: Regulations Related to Detention Center Is Not Gender Sensitive”, Jurnal Perempuan, retrieved from <http://www.jurnalperempuan.org/warta-feminis/lilis-lisnawati-kebijakan-terkait-institusi-penahanan-belum-sensitif-gender>.

⁴¹ Wulan IS., Riwayanto E. & Rinsu. (2012). Pedoman Perencanaan dan Penganggaran Responsif Gender dalam Bidang Pencegahan dan Pemberantasan Penyalahgunaan dan Peredaran Gelap Narkotika (P4GN), (Jakarta: Badan Narkotika Nasional dan Kementerian Pemberdayaan Perempuan dan Perlindungan Anak, Page. 11, retrieved from <https://www.kemenpppa.go.id/lib/uploads/list/98fe1-pprgbnn.pdf>

⁴² Badan Narkotika Nasional. (8 June 2015). “Women Exploited in Illicit Drug Trafficking”, BNN, retrieved from <https://bnn.go.id/eksploitasi-perempuan-dalam-peredaran-gelap-narkotika/>.

⁴³ Wulan IS., Riwayanto E. & Rinsu. (2012). Pedoman Perencanaan dan Penganggaran Responsif Gender dalam Bidang Pencegahan dan Pemberantasan Penyalahgunaan dan Peredaran Gelap Narkotika (P4GN), (Jakarta: Badan Narkotika Nasional dan Kementerian Pemberdayaan Perempuan dan Perlindungan Anak), Page. 11, retrieved from <https://www.kemenpppa.go.id/lib/uploads/list/98fe1-pprgbnn.pdf>

3. Discrimination and violations of the rights of women who use drugs (Art. 1, 2, 10, 11, 16)

3.1. Violence against women who used drugs

Research conducted with over 700 women who inject drugs across 5 cities in Indonesia, the *Women Speak Out* study, reported that 76% of women who inject drugs experienced violence from an intimate partner in the past year.⁴⁴ At least 50% had experienced physical violence, of which 6% experienced severe physical injury. In addition, 38% of respondents reported experiencing sexual violence, 5% of which involved force such as hitting, pushing, and using weapons to force sexual intercourse.⁴⁵ Related analysis provides empirical evidence showing that the syndemic conditions of intimate partner violence and depressive symptoms interact synergistically to increase women's HIV risk again indicating the need for services that consider the full scope of intersecting risk factors, rather than addressing individual conditions separately.^{46 47}

From 2018, Indonesian Justice Action (AKSI) recorded various forms of violence experienced by WUD, ranging from economic, physical, and sexual violence. Violence is perpetrated by the State, neighbors, intimate partners, and family members. According to a 2020 survey of 23 WUD, 45% of WUD are ostracized and treated badly by their neighbors.⁴⁸ Women who use drugs are a target of gossip and are considered social 'trash', and as 'bad' women. Some neighbors even forbid their family members from associating with WUD or their children for fear of being impacted by a 'bad influence'.⁴⁹

Physical, sexual, and psychological violence is also committed by family members. As many as 74% of WUD reported insults, threats using sharp weapons, or being thrown out of their homes. At least 54% have been hit, slapped, and kicked by family members, including their biological father. Meanwhile, 14% experienced sexual violence from their uncles, fathers, and cousins in the form of being touched, held, and forced to have sexual intercourse. Ironically, when they reported the violence they experienced to other family members, the report was often not believed and instead WUD are commonly cursed as a family disgrace.⁵⁰

*"Touching my thighs and breasts while I was sleeping. Finally, one night I saw the perpetrator holding me. I was angry, I got angry but my family didn't believe it because they thought I was a (drug) addict, "you're just not a family disgrace", that's what they never forget ."*⁵¹

In Indonesia, legal protection for survivors of violence is still very weak and weaker still for WUD. There is no specific policy that protects victims of sexual violence. Cases of violence against women are only regulated in the General Criminal Code (KUHP) which specifically prohibits rape in the form of penetrative sex. Other forms of sexual violence are regulated in the Domestic Violence Law (KDRT), which only applies

⁴⁴ Stoicescu C. (2015). "Women Speak Out: Understanding Women Who Inject Drugs in Indonesia", *Perempuan Bersuara*, Page. 1.7 <https://www.aidsdatahub.org/resource/women-speak-out-understanding-women-who-inject-drugs-indonesia>.

⁴⁵ *ibid*

⁴⁶ Stoicescu C., Ameilia R., Irwanto I., Praptoraharjo I. & Mahanani M. (2019). "Syndemic and Synergistic Effects of Intimate Partner Violence, Crystal Methamphetamine, and Depression on HIV Sexual Risk Behaviors among Women Who Inject Drugs in Indonesia". *J Urban Health Jun*; No 96, Vol 3, pages 477-496.

⁴⁷ Stoicescu C, Cluver L.D., Spreckelsen T. *et al.* (2018). "Intimate Partner Violence and HIV Sexual Risk Behaviour Among Women Who Inject Drugs in Indonesia: A Respondent-Driven Sampling Study". *AIDS Behav* No 22, pages 3307–3323..

⁴⁸ Based on AKSI survey in November-December 2020.

⁴⁹ *ibid*.

⁵⁰ *ibid*.

⁵¹ From FGD conduct by AKSi about Violence and Discrimination against WUD in Bogor 2020 to inform the CEDAW Shadow Report.

to victims and perpetrators who are categorized as family. As a result, violence in any form other than penetration, and committed by outside family members, such as intimate partners, escapes justice. In addition, stigma against survivors of violence is still very high in Indonesia, where violence is still considered a disgrace for women and their families. This makes survivors reluctant to report cases and is more complicated if it occurs for WUD, where the use of drugs is criminalized presenting additional obstacles in accessing justice.

"I was forced to work to earn money as a street singer because my husband did not want to work and was forced to meet household needs and the needs of my in-laws, but my sacrifice was paid back with pain that I cannot forget to this day", said E.W..⁵²

During a discussion conducted at the Indonesian justice action office, E.W. told of the violence she experienced as a woman who uses drugs. In February 2019, the police took E.W.'s daughter's body and the autopsy showed she had died from broken bones, and her vagina was damaged. E.W.'s daughter died because she was tortured by her stepfather, E.W.'s husband. E.W. was taken to a safe house to get psychological services. At that time, E.W. was pregnant with her second child. After completing therapy, she returned to a rented house, but was forced out by her in-laws and compelled to live on the streets, E.W. suffered depression and experienced a miscarriage.

The lack of legal aid, health and social services and consultation assistance, combined with stigma and discrimination, causes results with WUD rarely accessing assistance services, following experience of violence perpetrated by the State, partners and family members. These conditions violate standards set by Article 2 of the CEDAW.

3.2 Discrimination in access to education

In Indonesia, anti-drug campaigns are everywhere and difficult to miss.⁵³ This has an impact on the policies of the education office in the majority of provinces in Indonesia that have created regulations that require new students to be drug-free at the time of admission.⁵⁴ According to a survey conducted by BNN and the Indonesian Institute of Sciences (LIPI), out of the population of people who have used drugs, 2.3% are students.⁵⁵ More than half of the respondents (2,761) were women. Thus, with discriminatory regulations for new students requiring them to be drug free, substantial numbers of women find it difficult to access the right to education.

This is also evidenced from the results of the Justice Action Survey involving more than 65% WUD as survey respondents, who reported sanctions for drug use while in school.⁵⁶ Sanctions can take the form of being ordered to stand in the field for hours, being suspended for one month, or expulsion. These acts are clearly discriminatory and contrary to Article (28C subart. 1), 31 of the 1945 Constitution which guarantees the

⁵² Mei Amelia, "Cekcok dengan Istri, Ayah Tiri Banting Anak Hingga Tewas", Detik.com, retrieved from <https://news.detik.com/berita/d-4422121/cekcok-dengan-istri-ayah-tiri-banting-anak-hingga-tewas>

⁵³ Kompas. (2008). "Anti-Drugs Campaign in School and Campus", retrieved from <https://sains.kompas.com/read/2008/02/14/10255394/kampanye.antinarkoba.masuk.sekolah.dan.kampus>.

⁵⁴ Suara NTB. (3 February 2020). "Drug Free Test Become New Students Admission Requirement", retrieved from <https://www.suarantb.com/bebas-narkoba-jadi-syarat-ppdb/>.

⁵⁵ Badan Narkotika Nasional. (3 July 219). "Survey of Illicit Drug Abuse and Trafficking in 2018", retrieved from [Survei Penyalahgunaan Dan Peredaran Gelap Narkoba Tahun 2018 \(BNN - LIPI\).pdf](#)

⁵⁶ Based on survey conducted Indonesia Act for justice November – December 2020.

right to education for every citizen.⁵⁷ Both the drug-free selection regulations and sanctions in the form of being expelled from school violate the fifth principle of Pancasila, namely justice for all Indonesian people, and also runs counter to CEDAW article 10.

3.3 Discrimination in access to employment

In Indonesia, several companies and government agencies require prospective employees to have a drug-free certificate (SKBN).⁵⁸ This letter is a mandatory requirement, especially for those who wish to register as academics, police, military, or prospective civil servants in ministries, regional governments, agencies, and also state-owned enterprises (BUMN).⁵⁹ For employers specifically, the regulations regarding the existence of a SKBN for prospective employees are accommodated through the Minister of Manpower and Transmigration Regulation Number 11 of 2005 concerning Prevention and Eradication of Abuse and Illicit Drugs, Psychotropics and other Addictive Substances in the Workplace. Article 6 paragraph 1 states:

"Employers can ask workers who are suspected of abusing drugs, psychotropic substances and other addictive substances to take tests at the expense of the company."

Through this ministerial regulation, companies are encouraged to actively carry out drug prevention and control in the work environment. As a result, several WUD claim to have received sanctions in the workplace, including being fired and not being given the last month's salary.⁶⁰

The requirements for drug testing and the sanctions imposed on WUD are both clear forms of discrimination. WUD will find it difficult to find work and enjoy a decent life. Moreover, according to data from BNN, there are 1.51 million workers who are classified as 'drug abusers', where the ratio of male to female prevalence is 2.1%: 1.1%.⁶¹ This means that there are hundreds of thousands of women who are threatened with not getting jobs or being expelled from their jobs. This goes against CEDAW article 11.

3.4 Limited child custody and family rights

Traditional social constructs still place women as the main caregivers for family members in Indonesia. Women are considered to have an important role in creating a 'superior generation'. This stereotype creates multiple stigmas against WUD, namely as criminals due to drugs policies and also because they are considered to violate their gender role.⁶² This is the main reason why many women lose child custody. In one study of 30 WUD who have children, 7 reported having problems obtaining custody of their

⁵⁷ Suara NTB. (3 February 2020). "Drug Free Test Become New Students Admission Requirement", retrieved from <https://www.suarantb.com/bebas-narkoba-jadi-syarat-ppdb/>.

⁵⁸ Fallahnda B. (4 November 2020). "Requirement for Drug-Free Certificate for CPNS 2021", Tirto.id, retrieved from <https://tirto.id/syarat-buat-surat-keterangan-bebas-narkoba-untuk-daftar-cpns-2021-f6Bx>.

⁵⁹ Aditya R. (2020). "How to Get Drug-free Certificate", *Suara.com*, retrieved from <https://www.suara.com/news/2020/10/28/121812/cara-buat-surat-keterangan-bebas-narkoba>

⁶⁰ Tri Jata Ayu, "Dasar Hukum Pemeriksaan Tes Narkotika bagi Karyawan", Hukumonline.com, retrieved from <https://www.hukumonline.com/klinik/detail/ulasan/lt53eadc1c2663d/dasar-hukum-pemeriksaan-tes-narkotika-bagi-karyawan/>

⁶¹ Badan Narkotika Nasional. (3 July 219). "Survey of Illicit Drug Abuse and Trafficking in 2018", retrieved from [Survei Penyalahgunaan Dan Peredaran Gelap Narkoba Tahun 2018 \(BNN - LIPI\).pdf](Survei%20Penyalahgunaan%20Dan%20Peredaran%20Gelap%20Narkoba%20Tahun%202018%20(BNN%20-%20LIPI).pdf).

⁶² Kalsel.prokal.co. (23 November 2018). "Peran Perempuan dalam Mewujudkan Generasi Muda Bebas Narkotika", retrieved from <https://kalsel.prokal.co/read/news/18894-peran-perempuan-dalam-mewujudkan-generasi-muda-bebas-narkotika.html>.

children.⁶³ Another study found that 77% of women who used drugs also said that they were divorced because of their drug use.⁶⁴

In Indonesia, child custody after divorce is regulated in the Marriage Law and derivative regulations, such as the Islamic Law Compilation (KHI). Article 105 KHI states that for children under 12 years of age, the right of custody lies with the mother.⁶⁵ However, Article 156 C states that if the mother cannot guarantee the physical and spiritual safety of the child, the religious court can transfer custody to a relative or other party.⁶⁶ Through this article, it is possible for WUD to lose child custody if the mother is deemed unable to provide good parenting. With the presumption that WUD are 'immoral' women, WUD often lose custody of their children in the courtroom or if the mother has to serve a criminal sentence in a correctional institution (Lapas).⁶⁷ This situation runs against CEDAW Article 16. Drug use alone should never be the rationale for loss of child custody.

Recommendations:

- I. Addressing incarceration of women who use drugs:
 1. Prioritize alternatives to detention such as city detention, community service, guarantee, suspension of detention, rehabilitation or other alternative detention such as diversion. (see Bangkok Rules)⁶⁸.
 2. Law enforcement regulations must be adjusted to ensure women's access to justice. Resources must likewise be dedicated to ensuring that WUD in prison have access to harm reduction and other health services and basic health commodities.
 3. If WUD are to be detained, extended detention should be strictly avoided. Mechanisms for extending detention should be based on sound judgment in order to prevent arbitrary action by APH (see Bangkok Rules)⁶⁹.
 4. Ensure Permenkumham No.11 / 2017 concerning the Grand Design for Overcrowded Treatment in Detention Centers and Penitentiaries which aims to improve prisoner conditions, is implemented by the government and progress updated publicly (including for women's prisons).
 5. Provide harm reduction and related services (including harm reduction responses to ATS use) that are confidential, voluntary, low threshold, client-centered and responsive to women's needs, as outlined in international guidance.
 6. Provide reproductive health and HIV services in all prisons and detention centers and these services must be freely accessible to women.

⁶³ Kemen PPPA. (23 February 2020). "Menteri Bintang: Perempuan Harus Mandiri dan Berdaya, Kunci Wujudkan Generasi Unggul", [Kemenpppa.go.id](https://www.kemenpppa.go.id/index.php/page/read/29/2591/menteri-bintang-perempuan-harus-mandiri-dan-berdaya-kunci-wujudkan-generasi-unggul), retrieved from <https://www.kemenpppa.go.id/index.php/page/read/29/2591/menteri-bintang-perempuan-harus-mandiri-dan-berdaya-kunci-wujudkan-generasi-unggul>.

⁶⁴ Kalsel.prokal.co. (23 November 2018). "Peran Perempuan dalam Mewujudkan Generasi Muda Bebas Narkoba", retrieved from <https://kalsel.prokal.co/read/news/18894-peran-perempuan-dalam-mewujudkan-generasi-muda-bebas-narkoba.html>.

⁶⁵ Tri Jaya A. (24 September 2014). "Can Mother lost Her Custody", Hukum Online, retrieved from <https://www.hukumonline.com/klinik/detail/ulasan/lt54056e96c3618/bisakah-kehilangan-hak-asuh-jika-ibu-lebih-memilih-berkarir/>

⁶⁶ Heriani F.N. (17 June 2018). "Marriage is Over, Child Custody is Up for Grab", Hukum Online, retrieved from <https://www.hukumonline.com/berita/baca/lt5b1fa3dce96d9/perkawinan-retak--hak-asuh-anak-diperebutkan/>

⁶⁷ Based on AKSI survey in November --December, 2019.

⁶⁸ See Bangkok Rules at https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf

⁶⁹ Ibid.

7. All women in prison should receive adequate nutrition and health care without depending on payments from families.

II. Discrimination and violations of the rights of women who use drugs:

1. Reform the narcotics policy from a prohibitionist to a health-oriented, human rights based and gender sensitive approach.
2. Take steps to eliminate discrimination against and incarceration of women involved in low level non-violent drug offences (in line with the Bangkok Rules⁷⁰).
3. Encourage and support meaningful involvement of WUD drugs in design, implementation and evaluation of policies and services impacting WUD.
4. Cease the ineffective practice of drug testing in schools, instead encouraging communicative environments where students or employees can safely seek support if they are experiencing difficulties with drug use (acknowledging also the additional barriers to education and employment experienced by Indonesian women).
5. WUD should never be separated from their children simply because they have used a substance. Drug use does not equate with bad parenting. Separation of children from their mothers has been shown to be harmful for all concerned. Where there is no evidence of physical abuse or neglect, parenting support and relief childcare would be better responses.
6. Ratification of OPCAT in order to ensure the implementation of NPM that covers situation of WUD in detention/prison/rehabilitation facilities.
7. Issue better laws to address sexual violence that also cover the experience of WUD, including those in detention/prison/rehabilitation facilities.

III. Access to health

1. Expand harm reduction services to scale.
2. Adjust existing harm reduction and other HIV prevention programs to enable greater uptake by WUD by hiring more women staff, especially peers, providing on-site childcare support, women-specific IEC, flexible service hours and expanding fixed-site health care to include mobile outreach services.⁷¹
3. Introduce, capacitate and enforce accountability mechanisms to ensure the elimination of violence against women from the State.
4. Ensure all domestic violence and discrimination legislation is also mindful of the realities of WUD.
5. Provide preventative supports as well as GBV survivor services for WUD.
6. Provide complaint mechanisms that are safe, effective and can be easily accessed by WUD.
7. Provide integrated reproductive health services and/or ready assisted referral.
8. Provide harm reduction and related services (including harm reduction responses to ATS use) that are confidential, voluntary, low threshold, client-centered and responsive to women's needs.
9. Ensure that there is no discriminatory treatment against women who access essential health services, and meaningfully involving WUD in service design and delivery.
10. Ensure free sexual and reproductive health services are provided through harm reduction services.

⁷⁰ See Bangkok Rules at https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf.

⁷¹ See also the UNODC Practical Guide for further advice and detail, available at https://www.unodc.org/documents/hiv-aids/2016/Addressing_the_specific_needs_of_women_who_inject_drugs_Practical_guide_for_service_providers_on_gender-responsive_HIV_services.pdf

11. Ensure professional regulation of rehabilitation services to ensure they are voluntary, humane, gender sensitive and evidence based.