

STOP IMPRISONMENT, TIME FOR REHABILITATION

Monitoring & Documentation Report
of Police Abuse against People who Use Drugs
in Indonesia
4 Provinces in Java, 2007 - 2011

FORKON - PANAZABA - PERFORMA - EJA

The Monitoring Network on Human Rights Violations
against People who Use Drugs

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EXECUTIVE SUMMARY

In many countries, including Indonesia, the issue of mistreatment at the hands of government officials is one of the most common and serious human right violations. Physical assault and torture, sexual assault and harassment, verbal abuse, and other forms of mistreatment can occur in a variety of settings. It happens during searches, demonstrations, meetings, arrest or while the person is at the police station being questioned. Such ill-treatment occurs in public, police stations, prisons, private places, detention centres and military bases.

The victims highlighted in this report are people who use narcotics, psychotropic and other addictive substances. They experience stigma from their families, society and the state. They have been labeled as criminals, thieves, junkies, sources of disease and generally a negative influence on the community. This stigmatization has led to discriminative practices and mistreatment from society. The negative perception of people who use drugs within society also allows violence, coercion, and abusive force to be used by the state apparatus. People who use drugs are an easy target in the "War on Drugs" and are often victims of harassment and extortion by law enforcement authorities.

People who use drugs are vulnerable to a number of human right violations in the form of: physical, mental and sexual violence; neglect of health rights; stigmatization; and discriminatory and disproportionate punishment. Those rights, especially the right to physical integrity and liberty, freedom from torture or cruel, inhuman or degrading treatment or punishment, as well as freedom from arbitrary arrest and detention, are found in the major international human rights treaties (i.e. International Covenant on Civil and Political Rights and Convention against Torture) and in domestic law.

This report was prepared as a monitoring and documentation analysis and was carried out by The Monitoring Network of Human Rights Violation against People who Use Drugs. The Monitoring Network has four members which are FORKON, PANAZABA, PERFORMA and EJA. These are organizations of People who Use Drugs which are located in the Jakarta Capital Region, West Java Province, Central Java Province, and East Java Province.

The aims of this documentation analysis are to:

- (1) Better understand the causes and linkages between problems of mistreatment and abuse by the police and other law enforcement authorities against people who use drugs, and how national and international resources can help to address these problems;
- (2) Identify necessary actions to implement human rights based harm reduction programs in Indonesia; and
- (3) Contribute to country program strategies for evidence-based intervention, future research, and rights-focused advocacy efforts (especially at the grass root level).

The monitoring process was conducted initially from May to August 2009 and then continued in 2011. The monitoring took place primarily in Jakarta, Central Java, West Java, and East Java. The data and information gathered were based on the cases submitted. To analyze the results collected during monitoring, the question, "Who did what to whom?" was applied. This is based on a model developed by HURIDOCs. In summary, 139 cases were documented from 5 provinces during the period between 1997 and 2011:

1. 27 cases from DKI Jakarta
2. 28 cases from West Java
3. 56 cases from Central Java
4. 26 cases from East Java
5. 1 case from Yogyakarta

There was also one case reported from Lampung (outside Java). Of the 139 cases that were examined, 19 were female victims and 120 were male victims. Most of the cases recorded are related to the following acts:

- Denial of the right to personal integrity, especially related to physical violence: 117 cases
- Illegal arrest: 112 cases
- Detention / imprisonment: 97 cases
- Right to be presumed innocent: 96 cases
- Denial of the right to treatment with dignity and humanity: 95 cases
- Denial of the legal rights of arrested persons: 112 cases
- Denial of the right to lawful arrest: 108 cases
- Denial of the right to legal assistance: 108 cases

There are significant numbers of cases related to:

- Physical violence: 106 cases
- Torture: 71 cases
- Illegal search: 70 cases
- Extortion: 46 cases
- Threat or intimidation: 34 cases
- Seizures: 15 cases

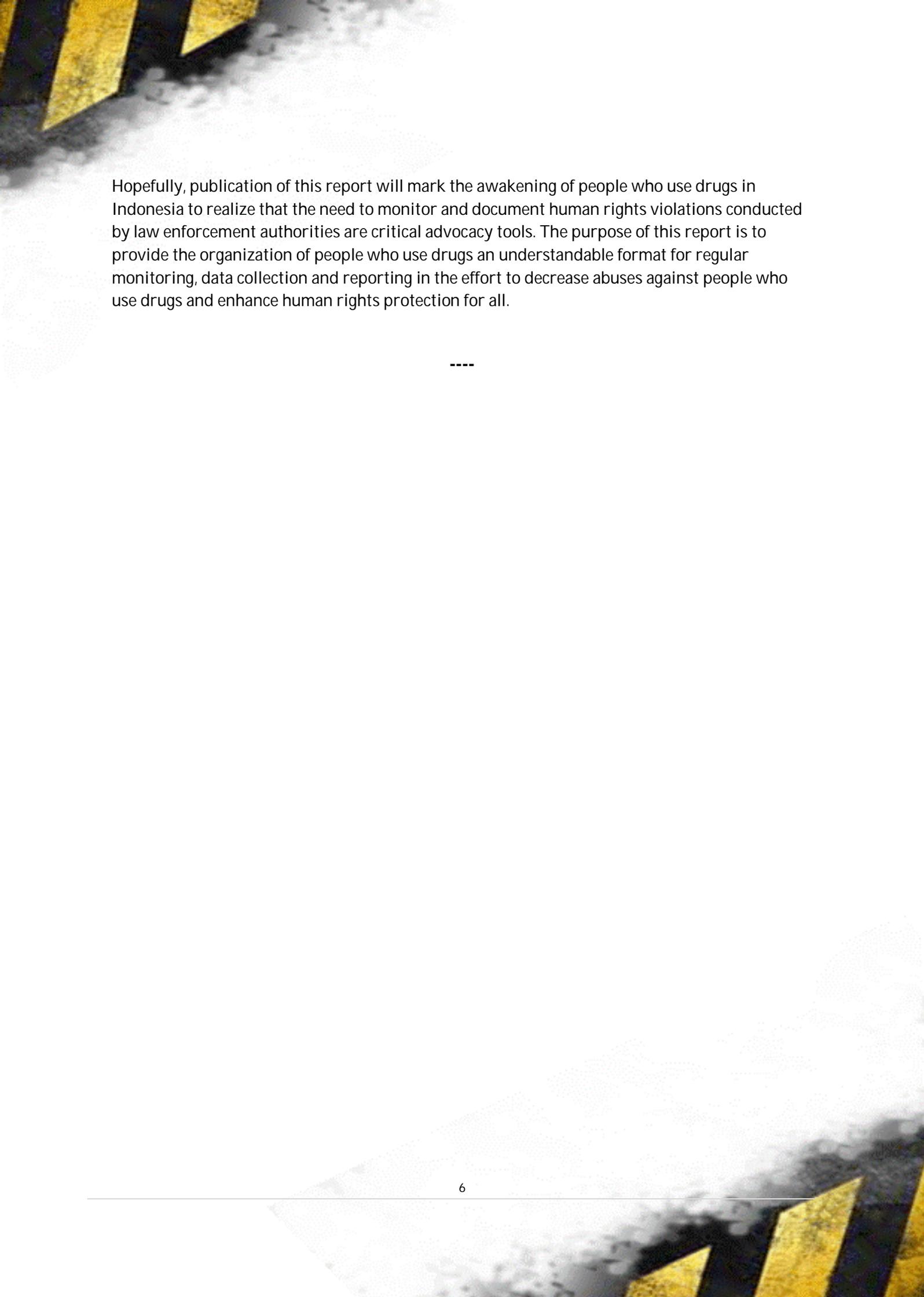
Based on the patterns above, it can be seen that most of the violations were conducted by a state agent, particularly by police at the provincial and district level. The Monitoring Network also found that violations sometimes happen during investigation at the District Attorney Office, during the trial by the District Court, or at the Correction Centres.

This research illustrates that repressive and punitive responses by law enforcement towards drug users will not solve the problem of drug use or HIV / AIDS. Instead, punitive approaches drive people who use drugs away from the centres of preventive care and treatment for drug dependence.

Based on the results of the research, The Monitoring Network recommends that the Government, with the assistance of the civil society, take decisive steps to implement the following recommendations:

1. Torture should be defined and criminalized as a matter of priority. Doing so will demonstrate Indonesia's commitment to implement Articles 1 and 4 of the Convention against Torture.
2. The Government of Indonesia should continue efforts to improve detention conditions with a view to providing health care, treat (rather than punish) persons with mental disabilities, and improve the quantity and quality of food provided to detainees. The Government, in all detention contexts, should ensure the separation of minors from adults, the separation of pretrial prisoners from convicts, and train female personnel to women's sections of prisons and custody facilities.
3. The Government of Indonesia should ensure that the criminal justice system is non-discriminatory at every stage. It should continue to combat corruption, which disproportionately affects the poor, the vulnerable and minorities. It should take effective measures against corruption by public officials responsible for the administration of justice, including judges, prosecutors, police and prison personnel.
4. All detainees should be effectively guaranteed the ability to challenge the lawfulness of their detention before an independent court, e.g. through habeas corpus proceedings. Judges and prosecutors should routinely ask persons arriving from police custody how they have been treated. If they suspect that the detainee has been subjected to ill-treatment, he/she should order an independent medical examination in accordance with the Istanbul Protocol (even in the absence of a formal complaint from the defendant). Confessions made by persons in custody without the presence of a lawyer, and which are not confirmed before a judge, shall not be admissible as evidence against the persons who made the confession.
5. Accessible and effective complaint mechanisms should be established. These should be accessible from all over the country and from all places of detention. Complaints by detainees should be followed up by independent and thorough investigations. Additionally, complainants must be protected against any reprisals.
6. The Government of Indonesia should accede to the Optional Protocol to the Convention against Torture, and establish a truly independent National Preventive Mechanism (NPM) to carry out unannounced visits to all places of detention. The Human Rights Commission, The National Commission on the Elimination of Violence against Women, and The Ombudsman should initiate the National Preventive Mechanism and conduct more regular monitoring at prisons and detention places, especially cases related to drug users, as part of the implementation of the Optional Protocol to the Convention against Torture.

Finally, the civic and human rights education for people who use drugs, which has focused on raising awareness on the right to health care (specifically relating to harm reduction), has resulted in the community mobilization of people who use drugs to access existing services and advocating for initiation of services where none are available.



Hopefully, publication of this report will mark the awakening of people who use drugs in Indonesia to realize that the need to monitor and document human rights violations conducted by law enforcement authorities are critical advocacy tools. The purpose of this report is to provide the organization of people who use drugs an understandable format for regular monitoring, data collection and reporting in the effort to decrease abuses against people who use drugs and enhance human rights protection for all.
