DRUG POLICY IN INDONESIA, LAW AMENDMENTS BUT PUNITIVE APPROACH REMAINS

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Abstract

The first Indonesian law on narcotics (Law Number 22 year 1997) was amended and the Indonesian’s government and parliament introduced a new law on narcotics i.e. Law Number 27 year 2009. This article argues that though the new law does introduce some positive measures e.g. addressing health concerns through the requirement to provide medical and social rehabilitation for individuals who are dependent on drugs, the law in fact still preserves most of the spirit of Indonesia’s “war on drugs”. However, it is noteworthy that though the Indonesia Government still applies a punitive and repressive approach to drug use and drug dealing, the Government also acknowledges the increasing contribution of risky drug injection practices to HIV epidemics. Since 2003 the Government had initiated a process that allows for the provision of harm reduction programs in the country. These indicate the ambivalence of the Indonesian government in dealing with drug issues and drug-related problems in the country.

Introduction

In this essay, I explore the magnitude and the impacts of drug use among young people in Indonesia, including the intersection between risky drug injection practices with the epidemics of HIV in the country. I also discuss the nature of drug policy in Indonesia which, like most other nations, is still focusing in criminalising and punishing drug users. This is followed by the presentation of the initiation, development and limitations of existing drug-related harm reduction programs in Indonesia.
Drug use in Indonesia

Regardless of different levels of development, for a long time most societies have used various forms of mood-altering substances for diverse reasons, including for recreational, healing or spiritual purposes. Like many other societies, the use of these substances is not a new phenomenon in Indonesia. Although the use of intoxicants is expressly forbidden within Islam (approximately 85 percent Indonesians are Muslim), studies highlight that the consumption of varied forms of these substances is common among many ethnic groups in the archipelago (Berman, 2003; Chandra, 2002), including among ethnic groups in which Islam is a dominant religion (Rush, 2007). Furthermore, Sir Stamford Raffles, an early British lieutenant-governor of Java, made a note in 1817 of the common use of home-brews, marijuana, betel nut and even opium among people in this island as well as in neighbouring islands (Berman, 2003).

The use and the trade of opium in Java were first recorded in the Dutch colonial era in the 17th century (Rush, 2007). Arriving in Southeast Asia nearly a century after the Portuguese, the Dutch soon became active in the region's opium commerce (Chandra, 2002). Chandra (2002) maintains that the Dutch established a permanent port at Batavia (now Jakarta) in 1619 and in cooperation with local sultans began importing opium from Bengal (India) in 1640 to supply Java's increasing opium demand. As the Dutch East Indies Company (VOC) won monopoly rights for Java's populous districts, the Company's opium imports from India rose sharply from 617 kilograms in 1660 to 72,280 kilograms only 25 years later (Chandra, 2002). Rush (2007) claims that the Company enjoyed impressive profits from the trade of opium. According to Rush, the Dutch East Indies Company purchased opium cheap in India and sold high in Java, enabling the Company to have approximately 400 percent profit on shipments in the 1670s. Furthermore, opium was later proved to be an essential trade good that attracted Asian merchants to Java and to other islands in the archipelago. By 1681, opium represented 34 percent of the cargo on Asian ships sailing out of Batavia’s port (Rush, 2007). At this period of time, the Dutch colonial administration noted that there were more than 1,000
opium dens in Batavia and more than 100,000 registered opium users, most of whom were Javanese (Berman, 2003)

With such a long history of contact with drug taking and drug dealing, it is not surprising that there are high levels of drug use and drug-related harms in the contemporary Indonesia. A national survey conducted by the Indonesian National Narcotics Board in 2005 found that approximately 13 million people (6 percent of the total population) had consumed illicit drugs at least once in their life time, 3.2 million of these (1 percent) used drugs on a regular basis and approximately 25 percent of those who use drugs regularly were heavily dependent and injecting drugs (Mesquita, Winarso, Atmosukarto, Eka, Navendorff, Rahmah, Handoyo, Anstasia, & Angela, 2007). It is noteworthy that the vast majority of those who take drugs in Indonesia are young people, aged between 15 to 24 years (Indonesian National Narcotics Board, 2010). Moreover, it was recently estimated there are between 170,000 to 200,000 injecting drug users in Indonesia (Pisani, 2006). Other estimates have put the number of injecting drug users in the country at between 600,000 and 1,000,000 (Reid & Costigan, 2002). Street grade heroin (putaw), crystal methamphetamine (sabu-sabu) and benzodiazepines (koplo) are the most common substances injected by drug users in Indonesia (Padmohoeodojo, 2005). However, some studies indicate that putaw is the most popular and the most frequently injected drug in many cities in the country (Padmohoeodojo, 2005; Pickless, 2006; Pisani, 2006; Reid & Costigan, 2002).

With the permeable borders of its numerous islands and the fact that Indonesia is geographically close to the Southeast Asian Golden Triangle (main source of opium in the region) as well not greatly distant from Afghanistan (another source of opium), it is not surprising that since the late 1990s Indonesia has become a great market for heroin, and currently also a rising market for amphetamines (Berman, 2003; Hyland, 2003; Mesquita et al., 2007; Padmohoeodojo, 2005). The Indonesian National Narcotics Board (2005) reports that cannabis is the most common drug taken by young people, followed by heroin, amphetamine type stimulants (ATS), hashish and cocaine. Furthermore, there is increased availability as well as young people’s greater access to night or party drugs
such as ecstasy in Indonesia (Beazley, 2008; Padmohoedojo, 2005). The use of sedative hypnotic drugs and drugs of inhalation as well as the practice of poly-drug taking are also common among young people in urban areas (Indonesian National Narcotics Board; 2010; Guinness, 2009; Mesquita et al., 2007; Padmohoedojo, 2005; Perry, 2009; Pickless, 2006).

**Drug use and HIV in Indonesia**

As in other countries in South and Southeast Asia, risky injecting practices such as the sharing of needles and other injecting paraphernalia are common among injecting drug users in Indonesia (Devaney, Reid, & Baldwin, 2005; Lorete, 2005; Pickless, 2006; Pisani, 2006; UNAIDS, 2007). It is therefore not surprising that there are rapidly increasing numbers of drug injectors in the country who are infected with HIV and hepatitis C virus (HCV). In 2006, it was estimated that more than half of new HIV cases in Indonesia were linked to risky injecting practices (Lorete, 2005; Mesquita et al., 2007; UNAIDS, 2007). The Indonesian Ministry of Health (2010) states that as of March 2010 there were 20,564 reported cases of people living with HIV in the country and more than half (57 percent) are aged between 20 and 29 years old. Considering the tendency of underreporting of HIV cases in Indonesia, the Indonesian National AIDS Commission (2010) estimates the number of people living with HIV and AIDS in the country ranges from 200,000 to 270,000. The Indonesian National AIDS Commission has also warned that this figure could increase to 500,000 by 2014 unless more is done to promote prevention and treatment programs. Moreover, the Indonesian National AIDS Commission (2010) maintains that HIV prevalence among injecting drug users is between 40 to 45 percent. Since early 2000, risky drug injection practices, in tandem with unsafe sexual practices, are the main routes of HIV infection in Indonesia (Ministry of Health, 2010). UNAIDS (2007) has identified a shift of HIV epidemics in Indonesia since early 2000 from ‘low prevalence’ to ‘concentrated prevalence’ implying the HIV prevalence is less than one percent in the general population but more than five percent among vulnerable groups such as injecting drug users, female sex workers and their clients as well as men who have sex with men (MSM). alth (2010)
Drug policies in Indonesia

Repressive and punitive approach

Like many other countries across the world, Indonesian’s responses to drug use have been characterised by moral panic and a repressive and punitive approach. For example, in 2000, along with other members of the Association of Southeast Asian Nations (ASEAN), Indonesia signed the ASEAN pledge to achieve a utopian ‘Drug-Free ASEAN’ by 2015 (Davis, Triwahyuono, & Alexander, 2009). The application of a repressive and punitive approach became more apparent after the launch of Indonesia’s ‘national war on drugs’ in 1997 in accordance with the announcement of the first Indonesian law on narcotics (Law Number 22 year 1997) and the first law on psychotropics (Law Number 5 year 1997). These include application of the death penalty in illicit substance-related cases (Davis et al., 2009; Fransiska, 2010). These laws on narcotics and psychotropic were introduced in the late term of Soeharto’s authoritarian regime and the meanings embedded in both laws and the ways they have been enforced have generated various forms of problems for drug users (Davis et al., 2009; Fransiska, 2010; Perry, 2009; Smith, 2009). It is worth noting that these two laws make little distinction between drug use and drug dealing. The laws categorise both actions as deserving severe punishment.

Davis and colleagues (2009) maintain that the Indonesian laws on narcotics and psychotropics allow sweeping arrests and lengthy prison sentences for traffickers, dealers and individuals found in possession of drugs. Those found guilty of being involved in drug trafficking and drug dealing may be sentenced to more than nine years in prison or even the death penalty in certain circumstances. Those found in possession of even a small amount of narcotics may face up to nine years in prison, including pre-trial detention periods that can persist for months. The Indonesian law on narcotics do not provide detailed guidelines for sentencing based on the amount of narcotics in
possession, so judges usually exercise broad discretion in drug cases and frequently issue draconian sentences (Davis et al., 2009; Fransiska, 2010; Smith, 2009).

In addition, government officials’ statements frequently indicate an aggressive approach toward drugs and drug users. For example, in 2000, the Minister for Youth and Sport maintained that drug takers may be dealt with through street justice, thus giving official sanction to actions outside of the law (Berman, 2003). Parallel to the Minister’s harsh stance, communities’ oppressive attitudes toward drug and drug users can be seen through banners commonly found in many big cities and small towns in Indonesia with harsh slogans such as ‘Drugs: Indonesia’s number one enemy’, ‘Destroy drug takers and dealers’, ‘Death to all Drug Users and Dealers’ and ‘Drug-Free Community’. Berman (2003) notes that in mid 2002, a crowd of more than 2,000 people in Jakarta took an oath to launch a war against the distribution and the consumption of drugs. Communities’ punitive attitudes toward drug use can also be viewed through the emergence of populist and militant organisations including GERAM (the People’s Anti-Addiction Movement) that declared it had hundreds of martial-arts fighters announcing their readiness to combat to the death in the ‘jihad’ against drugs. Another militant organisation is GANAS (the Anti-Narcotics Movement) which is aimed to monitor court hearings process and frequently decorates the court with strong antidrug banners.

GRANAT or the National Anti-Narcotics Movement is another example of militant organisation to fight drug use in Indonesia. GRANAT was initiated by Henry Yosodiningrat, a former lawyer, who spent three years trying to assist his son to overcome his dependence on putaw (street grade heroin). When Yosodiningrat’s attempts failed, he attacked several drug dealers and suppliers as a one-man army. He destroyed the homes of drug dealers and harshly tortured them as well as confiscated their drug stocks and took them to the police. With thousands of members and volunteers in early 2000, GRANAT often searches out drug activity and builds posts in several cities in Java where residents can report suspicious and drug-related young people’s activities. Berman (2003) highlights that, not surprisingly, these grass-roots militant organisations employ threatening acronyms for their names i.e. GERAM means ‘raging’ or ‘furious’, GANAS means ‘cruel’, ‘wild’, ‘savage’, or ‘vicious’, and GRANAT means ‘grenade’.
There are many other militant organisations including Islamic vigilante groups who declare their harsh stance toward drugs and drug users. These Islamic hard-liner groups frequently claim that the drug and HIV epidemic in Indonesia is caused by “an attack by the ideologies of the capitalist-secularist Western nations” (Berman, 2003, p.23). According to Berman, they also view drug dealers as greedy capitalists lusting after ever-increasing profits and whose aim is to weaken young Muslims across the world, including young Muslims in Indonesia. These organisations claimed that “with damaged lifestyles, bodies, minds, intellects, and with their social skills weakened, capitalist nations can easily enslave Muslim societies in the future … Any self-respecting Muslim, therefore, can not sit in silence and witnessing the destruction of the younger generation” (Berman, 2003, p.23).

The oppressive nature of the Indonesian laws on narcotics and the law on psychotropic as well as communities’ harsh responses toward drug users clearly indicate a utopian aspiration for a free drug society and a misleading understanding that a repressive and punitive approach will significantly reduce drug taking and drug-related crime. Numerous studies have revealed that instead of decreasing drug use, drug-related harms and offences, an oppressive approach frequently generates and exacerbates vulnerabilities particularly among young people in urban-poor neighbourhoods (Davis, Burris, Metzger, Becher, & Lynch, 2005; Dolan, Merghati, Brentari, & Stevens, 2007; Gray, 2001; Hunt, 2006; Hunt, Trace, & Bewley-Taylor, 2004; International Drug Policy Consortiums, 2010). Unnecessarily strict and repressive regulations evidently impede access to essential social supports and health services including treatment and rehabilitation. The fact that punitive drug laws hinder drug users access to essential services make these laws uniquely ‘criminogenic’, tending to push those who are dependent on drugs to be engaged in crime or offences (Bewley-Taylor, Hallam, & Allen, 2009; Dolan, et al., 2007; Gray, 2001; International Drug Policy Consortiums, 2010; Shaw et al., 2007; Stevens, 2009) to support their drug dependency. Furthermore, Bourgois maintains that it is unrealistic to understand better the current drug epidemics and drug-related harms that they produce without acknowledging the iatrogenic consequences of punitive and “carceral drug policy” (2003, p.36).
In addition, it is worth mentioning that there is little evidence supporting the notion that harsh punishment, including lengthy detention and imprisonment, may deter drug use and drug-related offences among young people (Gray, 2001; Hunt et al., 2004; International Drug Policy Consortiums, 2010; Stevens, 2009). A plethora of studies has even demonstrated that funding for drug treatment and rehabilitation is many times more cost-effective than imprisonment (Hunt, 2006; Hunt et al., 2004; Jurgen, Ball, Verster, 2009; Rivers et al., 2006). Repressive and punitive drug polices may also exacerbate HIV epidemics since drug injectors access to important services such as needle and syringe exchange program and methadone maintenance treatment may be hindered, providing fertile ground for engagement in risky injecting practices (DeBeck, Small, Wood, Li, Montaner, & Kerr, 2009; Hunt et al., 2004; International Drug Policy Consortiums, 2010; Jurgens et al., 2009). Furthermore, oppressive drug polices will increase the risk of detention and imprisonment among drug users. The Indonesian National Narcotics Board (2009), for example, acknowledges that the number of drug-related criminal cases significantly increased from 17,355 in 2006 to 22,630 in 2008 and the vast majority of these cases will end up in a lengthy imprisonment. However, it should be noted that studies have shown that HIV-risk behaviours (such as the sharing of needles and other injecting equipment as well as having multiple sexual partner with a low level of condom use) are more common in overcrowded prisons in many countries (Buavirat, Page-Shafer, van Griensven, Mandel, Evans, et al., 2003; Hammett, 2006; International Drug Policy Consortium, 2010; UNAIDS, 2009; Werb, Kerr, Small, Li, Montaner, & Wood, 2008). A cohort study of injecting drug users in Vancouver, Canada, revealed that having been imprisoned in the last six months was independently associated with a greater than 2.5-fold risk of HIV infection (Tyndall, Currie, Spittal et al., 2003). Furthermore, in Russia, which has the second highest rate of imprisonment in the world behind the United States, a qualitative study of injecting drug users in the country’s three prisons revealed the crucial role of correctional institutions in the spread of HIV in which the study participants reported high levels of syringe sharing and other HIV-related risk behaviours (Sarang, Rhodes, Plat et al., 2006). The common practice of HIV-related risk behaviours
among injecting drug users in Indonesian prisons was also reported (Indonesian National AIDS Commission, 2010; Pisani, 2009; Reid & Costigan, 2002).

In addition, the widespread practice of torture, abuse, harassment, ill treatment and other forms of violation of human rights by police toward drug users during their detention and imprisonment should be highlighted (Davis et al., 2009; Fransiska, 2010; International Drug Policy Consortiums, 2010; Perry, 2009; UNODC, 2009). In the Indonesian context for example, the Indonesian Harm Reduction Network (JANGKAR) in 2008 surveyed 1106 injecting drug users in 13 cities in the country, including Makassar, about their experiences of police abuse and revealed that of those interviewed, 667 or 60 percent, reported physical abuse by police (Davis et al., 2009). Davis and colleagues also maintain that among 100 injecting drug users interviewed by JANGKAR in Makassar, 46 of them had suffered from various forms of physical abuse, including sexual harassment, by police during their detention and imprisonment.

**Law amendment but punitive approach remains**

Between 2000 and 2004, drugs were not categorised by the Indonesia Government as a major issue to be addressed and were discussed mostly in terms of welfare and protecting young people, including from HIV infection, thanks to the spirit of reformation after the end of Soeharto’s authoritarian regime (Davis et al., 2009; Fransiska, 2010; Perry, 2009). However, since 2005, President Soesilo Bambang Yudhoyono has considered narcotic use a serious national problem that endangers security as well as the religious and moral values of the nation (Perry, 2009). It is in this environment that in September 2009 the first law on narcotics (Law Number 22 year 1997) was amended and the Indonesian’s government and parliament introduced a new law on narcotics i.e. Law Number 27 year 2009. Though the new law does introduce some positive measures such as addressing health concerns through the requirement to provide medical and social rehabilitation for individuals who are dependent on drugs, the law in fact still preserves most of the spirit of Indonesia’s “war on drugs” (Fransiska, 2010).
Contrary to what drug reform groups such as the Indonesian Coalition for Drug Policy Reform (ICDPR) were hoping, the new law maintains the death penalty for some drug offences as well as continues to criminalise drug dependency. It also makes it a crime for parents to fail to report their drug-dependent children to authorities (Fransiska, 2010). The new law also states that a drug user can be legally detained up to 72 hours, while the previous law only allowed detention for a maximum 24 hours. Moreover, the new law transfers responsibility for fighting drug trafficking from the government to civil society. Though the Indonesian Government claims these changes are an essential move in order to save the younger generations from drugs, several human rights and non-government organisations working on drug and HIV prevention criticise the lack of reform in the new law. The Indonesian Coalition for Drug Policy Reform for example has warned that the article in the new law on narcotics transferring responsibility for fighting trafficking from the government to civil society could lead to vigilante and street justice (Davis et al., 2009; Fransiska, 2010). The Coalition also offers criticism of the new law that maintains the death penalty as contrary to the purpose of modern criminal charges that aim to rehabilitate individuals involved in offences rather than punish them for their actions (Fransiska, 2010; Perry, 2009). Moreover, the Coalition maintains that since 2006, the Indonesian Government has allocated 200 billion rupiah to enforcing harsh law on narcotics and psychotropic. This has only resulted in significant increase in the deaths and arrests of drug takers as well as the number of HIV infections among drug users (Perry, 2009).

It is in the context of repressive drug policies in many countries across the globe that Julio Montaner, President of the International AIDS Society (IAS), at the recent XVIII International AIDS Conference (AIDS 2010) in Vienna, Austria (July 2010) stated that ‘misguided drug policies fuel the AIDS epidemic and result in violence, increased crime rates and destabilization of entire states - yet there is no evidence that they have reduced rates of drug use or drug supply’. The Vienna Declaration to support evidence-based drug policy was also signed and launched during the AIDS Conference. The “Vienna Declaration” calls on governments and international organisations to take a number of urgent steps, including: to undertake a transparent review of the effectiveness of current
drug policies; to implement and evaluate a science-based public health approach to address the harms stemming from illicit drug use; to scale up evidence-based drug dependence treatment options; to abolish ineffective compulsory drug treatment centres that violate the Universal Declaration of Human Rights; and to unequivocally endorse and scale up funding for the drug treatment and harm reduction measures endorsed by the World Health Organisation (WHO) and the United Nations.

In addition, the Vienna Declaration calls for greater and meaningful involvement of people who use drugs in developing, monitoring and implementing services and policies that affect their lives. The Vienna Declaration is one step in campaigning for support of science-based approaches to dealing with illicit drugs. The signature-gathering process during the AIDS Conference was aimed to stimulate scientists, activists, people working in drug policy as well as drug users in advocating and placing a real and sustained pressure on policymakers to meaningfully reflect on the scientific evidence regarding the limited beneficial effects and the abundant negative unintended impacts of repressive drug policies.

**Harm reduction programs in Indonesia**

**Limited scale and individualised harm reduction programs in Indonesia**

Despite the fact that the Indonesia Government applies a punitive and repressive approach to drug use and drug dealing, the Government also acknowledges the increasing contribution of risky drug injection practices to HIV epidemics. Since 2003 the Government had initiated a process that allows for the provision of harm reduction programs in the country. Harm reduction programs are defined as broad strategies designed to assist at-risk population who are current users of illicit drugs to anticipate and/or avoid high-risk situations for themselves or others (Grund, 2005; Pauly, 2008; Wodak & Cooney, 2005). These interventions are intended particularly to minimise the risk related to the consumption of drugs and to prevent HIV and other blood-borne viral (BBV) infections (Crofts, 2005). There is significant evidence that harm reduction
approaches, such as needle and syringe exchange (NSP) and methadone maintenance
treatment (MMT) are effective in reducing risks associated with drug use (Bravo,
Royuela, Barrio, de la Fuente, Suarez & Brugal, 2009; Loxley, Toumbourou, Stockwell
et al., 2004; Pauly, 2008; Strathdee & Vlahov, 2001).

There are no legal barriers against the implementation of harm reduction programs in
Indonesia, however, prejudicial interpretation and misinterpretation of the expired law on
narcotics (Law Number 5 year 1997) have resulted in generating constraints, including in
the realm of the prevention of HIV and other drug-related harms (Mesquita et al., 2007).
In order to overcome these constraints, the Indonesian government has released the
National Strategy for HIV and AIDS Prevention and Care Programs (2003-2007) and the
Memorandum of Understanding (MoU) between the National AIDS Commission and the
National Narcotics Board establishing the political and institutional settings for harm
reduction programs in the country. Furthermore, in January 2004, the Head of the
National AIDS Commission and other authorities in Indonesia signed the ‘Sentani
Commitment’, a document explicitly delineating needle and syringe programs as well as
methadone maintenance treatment.

Several public statements from authorities, including the President and the Vice President
of Indonesia, also clearly promoted and supported harm reduction programs. Provincial
authorities, such as the Vice-Governors of Greater Jakarta, West Java, Bali, South
Sulawesi as well as district and city levels of governments, are publicly supportive of
harm reduction, including the commitment of their provinces’, districts’ and cities’
budgets to support the scaling up of the response (Mesquite et al., 2007). These political
and financial commitments are essential since a shift from centralistic to decentralisation
policies has occurred in Indonesia since 1999 following the downfall of Soehartos’s
regime has given a bigger role to provincial, city and district levels of governments
(Aspinall, 2006; Mesquite et al., 2007).

Even though political resistance has arisen from some sectors of the police, politicians
and religious leaders who prefer to maintain a focus on law enforcement, in 2007 there
were 41 non-government organisations working in the field of harm reduction (Mesquite et al., 2007). Among these, 16 were organising needle and syringe programs targeting 4,500 people who inject drugs on a monthly basis. Furthermore, there were more than 1000 community health centres (*puskesmas*) which offered needle and syringe exchange as well as methadone maintenance treatment. However, compared to the large number of injecting drug users in Indonesia, these harm reduction programs are clearly limited and urgently need to be scaled up ( Indonesian National AIDS Commission, 2010; Mesquita et al., 2007). The Indonesian National AIDS Commission (2010) maintains that the existing harm reduction programs in Indonesia are estimated to cover only three of ten injecting drug users in the country. It is also noteworthy that, like in many other countries, harm reduction programs in Indonesia are still highly individualised, overemphasising individual factors for behavioural changes, and do not sufficiently address social and structural barriers militating against the practice of safer behaviours (Nasir, 2006, Nasir & Rosenthal, 2009a, 2009b).

**Conclusion**

I have shown in this essay the magnitude and the impacts of drug consumption among young people in Indonesia, including the association of risky drug injection practices with HIV epidemic in the archipelago. I have also discussed the nature of drug policy in Indonesia including the law amendments of the first Indonesian law on narcotics. It is noteworthy that even though the first law has been amended, the punitive and repressive approach to drug use and drug dealing remains.

However, despite the fact that the Indonesia Government still applies a punitive and repressive approach to drug use and drug dealing, the Government also recognises the increasing contribution of risky drug injection practices to HIV epidemics in the archipelago. Therefore, since 2003 the Government had initiated a process that allows for the provision of harm reduction programs in the country. However, the small scale and the individualised nature of these harm reduction programs limited their effects. These
indicate the ambiguity of the Indonesian government in addressing drug issues and drug-related problems in the country.

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