

Caught in the Crossfire:

Health and human rights
impacts of COVID-19
measures on people who
use drugs in Indonesia
and the Philippines

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Health and human rights impacts of COVID-19 measures on people who use drugs in Indonesia and the Philippines

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Harm Reduction International (HRI) is a leading non-governmental organisation dedicated to reducing the negative health, social and legal impacts of drug use and drug policy. We promote the rights of people who use drugs and their communities through research and advocacy to help achieve a world where drug policies and laws contribute to healthier, safer societies. The organisation is an NGO with Special Consultative Status with the Economic and Social Council of the United Nations.

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1. Introduction

COVID-19, as well as government responses to the pandemic, are having unprecedented impacts on peoples' lives, and are exacerbating vulnerabilities and inequalities. Since the early stages of the pandemic, many governments around the world have resorted to securitised strategies centred around control and punishment, introducing lockdowns and other restrictive health protocols as well as administrative and criminal sanctions for their violations, and elevating law enforcement to key management and implementation positions in the COVID-19 response. This has often led to policies skewed towards repression and control, rather than health, transparency, and socio-economic support. Furthermore, the expansion of law enforcement powers has in several contexts resulted in increased criminalisation, surveillance, and targeting. As a result, populations already vulnerable and marginalised have experienced heightened policing, discrimination, and detrimental impacts on their rights and health.¹

While the impacts of these policies on vulnerable communities such as women, migrant workers, and refugees are well-documented, less information is available on the repercussions on the rights and health of people who use drugs and their communities.²

1.1. Objectives and methodology

To gain better insight into the issue, in March 2021 Harm Reduction International (HRI) set out to explore how policies introduced by governments to control the spread of COVID-19 impacted on the health and rights of people who use drugs, who are among the most criminalised and marginalised in many societies.

This report describes and analyses the findings of this research, with a focus on how securitised approaches affect the livelihood, security, health, and human rights of people who use drugs, their families, and their communities.

This report is a result of collaboration with local partners to track governments' responses to COVID-19 and their compatibility with human rights obligations.³ Indonesia and the Philippines were selected for their extremely punitive approaches to drug control, in many ways similar to their ongoing COVID-19 control policies. Further, in both countries there are strong, well-established organisations of people who use drugs, which could lead on interviews and data collection with members of the community. These organisations are AKSI Keadilan Indonesia (AKSI) in Indonesia, and IDUcare in the Philippines. AKSI provides community-based legal aid services and education for people who use drugs and other vulnerable groups in Indonesia;⁴ while IDUcare is a peer-based community of people affected by drugs aiming towards behaviour change, integral health and upholding and defending human rights, which is based in Cebu City, Philippines.⁵

1 Among others, see: Asia Centre (2021), 'The Securitisation of COVID-19 Health Protocols: Policing the Vulnerable, Infringing their Rights', (Bangkok: Asia Centre), https://www.hri.global/files/2021/08/18/HRI_Asia_Centre_-_Securitisation_FINA1.PDF. UN Committee on the Elimination of Racial Discrimination, 'Statement 3 (2020): Prevention of Racial Discrimination, Including Early Warning and Urgent Action Procedures' (101st Session, 4 – 7 August 2020).

2 For earlier resources, see: INPUD (August 2020), 'INPUD Online Survey on COVID-19 & People Who Use Drugs (PWUD) Data Report 2' (London: INPUD), https://www.inpud.net/sites/default/files/COVID-19%20Survey%20Data%20Report%202_0.pdf.

3 For more on this, see <https://www.hri.global/covid-emergency-powers>.

4 <https://aksikeadilan.org/tentang-kami/>.

5 <https://www.facebook.com/IDUCAREHomeOfHope/>.

To gather information, a survey was developed by HRI together with AKSI and IDUcare, with questions divided into the following categories:⁶

- ▶ Demographic information;
- ▶ Impact of COVID-19 and COVID-19 responses;
- ▶ Contact with law enforcement during the COVID-19 pandemic;
- ▶ Gender-based violence experienced during the COVID-19 pandemic;
- ▶ Detention during the COVID-19 pandemic;
- ▶ Vaccination for COVID-19;
- ▶ Access to health services during the COVID-19 pandemic.

The data collection was conducted through interviews (in the Philippines) with 30 people, and Focus Groups (in Indonesia) with 27 people. The size of the sample is limited because of the obstacles that COVID-19 posed on data collection, the sensitive nature of the topic, as well as financial, legal, logistical, and time constraints. While many groups are represented in the sample, it cannot claim to be representative of the population of people who use drugs in both countries as a whole. Rather, the primary aim of this report is to amplify the voices, experiences, and concerns of people who use drugs living in already punitive contexts, and to outline their recommendations for a human rights and health centred response to COVID-19.

In Indonesia, the survey was rolled out in the form of online Focus Group Discussions (Focus Groups) organised by AKSI. Three Focus Groups were conducted between 19 and 21 July 2021, with a total of 27 people who use drugs (including some working as community paralegals) participating. In the Philippines, the survey was rolled out by IDUcare between 12 June and 12 July 2021 among 30 people who use drugs in Cebu City. Participants were identified through IDUcare's network, and answers were collected through one-to-one interviews. Because of the sensitivity of the questions, some participants asked to provide answers in writing. Both in Indonesia and in the Philippines, not all participants answered all the questions.

AKSI and IDUcare selected the data collection methods by taking into account the specific contexts in which the survey was rolled out, and evaluating which method would have been the safest and most effective in each country. For example, health protocols in the Philippines allowed for in-person meetings, but reluctance to discuss the subject because of fear and stigmatisation made group discussions unfeasible. In Indonesia, respondents agreed to openly answer the questions in group discussions, but COVID-19 regulations did not allow for in-person gatherings. The methods employed impacted the kind and quality of results, with more quantitative information available in the Philippines, and more in-depth testimonies gathered from Indonesia. The interviews and Focus Groups were conducted in local languages, with the results subsequently translated into English by AKSI and IDUcare, and sent to HRI to be analysed and collated, together with a short reflection for the Philippines and an analysis for Indonesia.

⁶ The full survey is available in Annex 1.

1.2 The COVID-19 situation and policy responses in Indonesia and the Philippines⁷

Both Indonesia and the Philippines adopted highly securitised approaches to COVID-19 control, implementing strategies focused on limitation of movement, surveillance, and punishment. A wide range of actors, from the UN to civil society organisations, have highlighted the limited effectiveness of these policies, their failure to prioritise health and socio-economic support, and their detrimental effect on the health and human rights of the population; with a particularly dire impact on vulnerable communities.

The first COVID-19 case in the Philippines was confirmed in late January 2020. Since March 2020, the government has used the powers provided by the declaration of a State of Calamity (16 March 2020) and State of Emergency (24 March 2020) to impose and enforce lockdowns, close public spaces and non-essential businesses, impose mask-wearing mandates, and empower Local Government Units (LGUs) to introduce parallel measures. All Filipinos were mandated to stay inside their homes at all times, and LGUs issued quarantine passes for one person per household, that permitted the bearer to leave the home within a certain area on a specific schedule. Failure to comply with local or national COVID-19 protocols could be punished with a fine and/or imprisonment. Similarly, in Indonesia, on 31 March 2020, the government declared a Public Health Emergency which placed several areas of the country under 'large-scale social restriction', which significantly limited movement. A nationwide mask-wearing mandate was also imposed in April 2020. Fines and community service were envisaged as punishment for failure to comply with COVID-19 regulations both at the national and local level.

Despite these restrictive policies, the rates of COVID-19 transmission and COVID-19 related deaths remained high, and were often among the highest in the region: throughout 2020 and 2021, record COVID-19 outbreaks were repeatedly recorded in both countries.⁸ As of 10 October 2021, over 4 million cases and 142,000 deaths had been recorded in Indonesia,⁹ with new peaks throughout June and July 2021.¹⁰ In the Philippines, WHO confirmed over 2.5 million cases and almost 40,000 deaths,¹¹ and a new daily record of 22,820 cases was reported in September 2021.¹²

7 Unless otherwise specified, the source for all the information in this section is Asia Centre (2021), 'The Securitisation of COVID-19 Health Protocols: Policing the Vulnerable, Infringing their Rights'.

8 For example: The Japan Times (7 August 2020), 'Philippines now has worst COVID-19 outbreak in Southeast Asia, Bloomberg (29 September 2021), <https://www.japantimes.co.jp/news/2020/08/07/asia-pacific/philippines-coronavirus-southeast-asia/>; 'Why the Philippines Became the Worst Place to be in COVID', <https://www.bloomberg.com/news/articles/2021-09-29/why-the-philippines-just-became-the-worst-place-to-be-in-covid>; Fira Abdurachman, Richard C. Paddock, and Muktita Suhartono (17 July 2021), 'The Pandemic Has a New Epicenter: Indonesia', New York Times, <https://www.nytimes.com/2021/07/17/world/asia/indonesia-covid.html>.

9 <https://covid19.who.int/region/searo/country/id>.

10 Joshua Kurlantzick (30 September 2021), 'Indonesia Finally May Have Turned a Corner on COVID-19', *Council on Foreign Relations*, <https://www.cfr.org/blog/indonesia-finally-may-have-turned-corner-covid-19>.

11 <https://covid19.who.int/region/wpro/country/ph>.

12 Reuters (9 September 2021), 'Philippines sees record 22,820 new daily coronavirus cases', <https://www.reuters.com/world/asia-pacific/philippines-sees-record-22820-new-daily-coronavirus-cases-2021-09-09/>.

2. Key findings

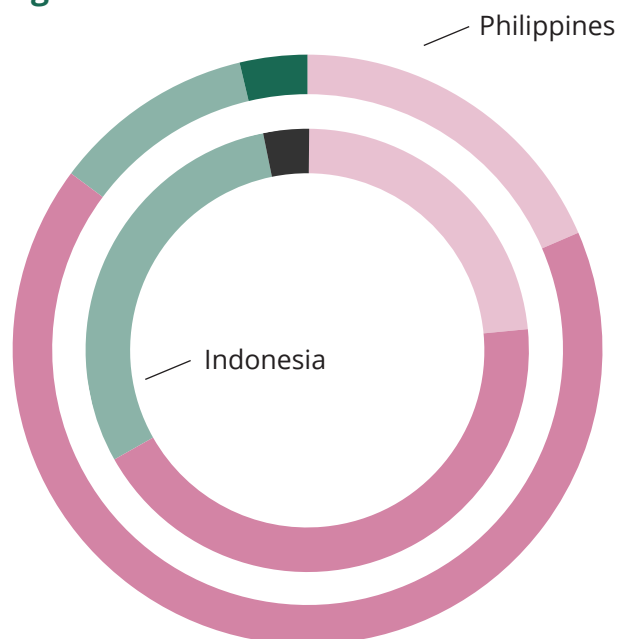
2.1. Respondents' profile

All the respondents in the Philippines were Filipino nationals. Twenty identified as males and 10 as females. Thirteen respondents were aged 30-44, nine were between 45-60, seven were between 22-29, and one was 18-21. All identified as people who use drugs; in addition, nine identified as people living with HIV, six as sex workers, and two as migrant workers. Twelve reported being unemployed at the time the interview was conducted, while the remaining 18 were in either fixed (7) or freelance (11) employment.

All the respondents in Indonesia were Indonesian nationals. Thirteen identified as females, 11 as males, and three as transgender. Eighteen respondents were aged 30-44, three were between 45-60, five were between 22-29, and one person did not give their age information. Twenty-three respondents identified as persons who use drugs, one indicated having a history of drug use, while three did not report any history of drug use. Six identified as people living with HIV, four as LGBTQI+ individuals, three as sex workers, and one as a social activist (with no further explanation). Five respondents reported being unemployed, while nine people worked as freelancers; three were in fixed employment in different sectors. At the time of the Focus Groups, the respondents lived in different provinces of Indonesia: seventeen in West Java, four in Jakarta, and one each in Banten, Bali, Central Java, East Java, North Sumatera and South Sumatera.

The number of participants who reported contracting COVID-19 is low: two respondents in the Philippines, and four in Indonesia. However, this finding must be considered in light of issues around the availability and accessibility of COVID-19 testing in the two countries, which will be addressed in-depth in section 2.4.

Age Distribution



■ 18-21 ■ 22-29 ■ 30-44 ■ 45-60 ■ N/A

Self-identification as a member of a vulnerable group

	Indonesia	Philippines
Person who uses drugs	23	30
People living with HIV	6	9
Sex Worker	3	6
LGBTQI+	4	-
Migrant Worker	-	2
Social Activist	1	-

2.2. Impact of the pandemic on livelihoods and socio-economic support

By restricting movement, the ability to work and earn an income, and in many cases access to food, housing, education, and public services, the pandemic - as well as measures introduced to contain the spread of the virus - has had a significant impact on people's standards of living. Already vulnerable groups, such as informal and migrant workers, were hit the hardest. For this reason, policymakers were urged to "prioritise measures to guarantee basic economic and social rights."¹³ This was essential in order not only to protect livelihoods and social stability, but also to successfully control the spread of the virus, by putting people and communities in the necessary conditions to comply with health protocols.

When asked whether their employment and/or income were negatively affected by the pandemic, many respondents from both countries gave an affirmative answer. As people who use drugs are criminalised, stigmatised, and marginalised in both countries, many of them are unemployed or work in informal sectors.¹⁴ That was also the case for the surveys' sample, with at least 20 respondents (11 from the Philippines and nine in Indonesia) identifying as informal workers.

As many as 86% (26) of respondents in the Philippines said that their income was reduced as a consequence of the pandemic (three answered no, and one did not provide an answer). Of those who provided further details, most (18) identified the lockdown - with the closure of businesses and the halting of daily activities - as the main reason. Participants in Indonesia gave similar responses, with at least 12 informants explicitly acknowledging that their income was significantly reduced compared to before the pandemic. As in the case of the Philippines, those identifying as sex workers noted that they had fewer clients and thus less income. Amidst a pandemic, and lacking the necessary support, they were left with an impossible choice between income, health, and risk of punishment both for violating COVID-19 protocols, and for engaging in sex work - which is criminalised in both countries:¹⁵



“(As a sex worker), I am afraid to get a client. I don’t know whether they will have COVID-19. I am afraid of the risk because I meet many people every day. If I want to accept a client at night, the road is closed and there is also a curfew.”

People found themselves forced to sell or return essential items. One respondent from Indonesia mentioned that she had to return her motorbike because she could not afford instalments anymore; while when asked to share his phone number for follow-ups to the survey, a participant from the Philippines said that he “had to sell [his] phone to buy food.” One informant who works as a community outreach worker stated that his salary was not reduced, but that he lost a significant amount of income in the form of per diems/transportation allowance that is usually given to attend in-person meetings or going on work trips. Two respondents from Indonesia who owned small businesses (a street Thai tea seller and traditional chips seller) reported they had to close down because of the loss of clients and thus income. Similarly, three respondents who earned money by selling drugs before the pandemic (two from Indonesia and one from the Philippines) reported a decreased income, including because buyers requested to pay for the drugs at a later time.

13 United Nations (April 2020), ‘COVID-19 and Human Rights: we are all in this together’, https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf.

14 For a definition of ‘informal economy’, see <https://www.ilo.org/global/topics/dw4sd/themes/informal-economy/lang--en/index.htm>.

15 For more information, see: Global Network of Sex Work Projects, ‘Global Mapping of Sex Work Laws’, available at: <https://www.nswp.org/sex-work-laws-map> (last accessed 27/10/2021).

Despite this significant impact on livelihood, 26% of Filipino respondents declared they had received no support from public authorities. Three did not provide an answer, while the remaining 18 reported some limited support, mostly in the form of cash and/or food. The food aid normally included canned food, instant noodles, and rice, which do not allow for a nutritionally complete diet. The monetary support most often consisted of PHP 6,000 (USD 120) - roughly two-thirds of the average monthly income for non-agricultural workers in Cebu - for either one or two months, suggesting this was highly insufficient to make up for the loss of income. This finding is of particular interest when read in conjunction with self-reported reasons for violating curfews and other lockdown measures: of the 21 Filipino respondents who admitted to failing to comply with lockdown regulations, at least nine cited needing essential items (mostly food) or money as the reason. Other two indicated family-related reasons.

The Indonesian government also provided some assistance to low-income families, in the form of cash, in-kind, or a combination of the two. However, only four out of 27 respondents confirmed that they received social assistance from the government. One of them reported that in order to get social assistance from the Ministry of Social Affairs, she had to go to a designated location, where no health protocols were implemented during the distribution process. In terms of cash support, participants received different amounts ranging from USD 6 - USD 25 per disbursement, and reportedly got the disbursement only once or, in one case, three times throughout the pandemic. As in the case of the Philippines, the amount was completely inadequate to compensate for the financial stress posed by the emergency.

It is unclear whether the other Indonesian respondents did not get the social assistance due to a failure to meet the criteria or for other reasons, such as mismanagement of allocated public funds by senior officials. Notably, in August 2021 former Indonesia's Minister of Social Affairs, Juliari Batubara, was convicted for corrupting COVID-19 social assistance funds, which is believed to have prevented many from getting the support they were eligible for.¹⁶ One respondent, who works as the Head of Neighbourhood Association (the lowest administrative unit in Indonesia), reported that although having been informed that social assistance had been distributed to local municipalities, this had not been delivered yet to the people in his neighbourhood.

Despite not receiving the needed support from the government, some Indonesian informants indicated that they received significant support from their peer communities, civil society organisations, and/or their workplace, in the form of basic staples and Personal Protective Equipment (PPE) (including face masks and hand sanitiser), and in some instances cash. Furthermore, members of the community and civil society organisations also helped respondents access essential medication, such as antiretroviral drugs (ARV):



“During the self-isolation, I realised that support comes from my community, not from the government. I got a lot of support and help from the community. They often sent me foods and vitamins.”

¹⁶ Channel News Asia (23 August 2021), 'Former Indonesian minister jailed for 12 years in COVID-19 graft case', <https://www.channelnewsasia.com/asia/indonesia-former-minister-juliari-batubara-covid-19-graft-jailed-2130421>.

2.3. Criminalisation, policing, and detention during covid-19

Contact with law enforcement

In order to control the spread of this COVID-19, governments around the world - including in Indonesia and the Philippines - adopted measures aimed at restricting movement, interactions, and thus opportunities for the virus to spread in the community. In many cases, these measures provided the police and law enforcement with new, expanded powers - including to enforce health protocols and punish those found violating them, and to monitor and surveil communities. While to some degree necessary, the result was in many cases the heightened policing of already targeted groups and communities, which in turn increased the risk of police violence and abuse. As detailed below, people who use drugs noted how COVID-19-related powers were widely misused as an additional tool to control and target them, creating a continuum between the ongoing 'war on drugs' and the new 'war on Covid-19' (both often described as ultimately a 'war on the poor').

This clearly emerged in a testimony from Indonesia, where Anwar¹⁷ from East Java reported that he and his friends were arrested (on separate occasions) after the police conducted unlawful drug tests against them as part of a COVID-19 raid (whereby law enforcement patrolling the area disperses people found in violation of COVID-19 protocols). In Anwar's case, the police conducted a urine test - which is in itself an ineffective and harmful practice, and can be an arbitrary interference with the right to privacy¹⁸ - after seeing a picture of cannabis on Anwar's phone. In the case of Anwar's friend, it remains unknown what triggered the urine test. Despite there being no legal justification for conducting drug tests during COVID-19 raids, they were far from a rare occurrence, leading the community of people who use drugs to question the real reason behind the COVID-19 patrols and raids; particularly in light of the extortion that often happens in drug cases.¹⁹

As one respondent concluded:



“So what is the real objective? To disperse the crowd, or to net [people who use drugs]?”

In some cases, the same authorities who are tasked with drug law enforcement were also put in charge of COVID-19 control. For example, according to one Indonesian respondent, police from the Directorate of Drug Investigation were among the law enforcement divisions who carried out COVID-19 patrols in his neighbourhood. It is unclear what the legal basis for the Directorate of Drug Investigation's involvement was, as Police Telegram Letter No. ST/983/111/OPS.4.5/2020 only assigned personnel from the Directorate of Community and Society Development, Directorate of Vital Object Protection, Directorate of Water Unit, and Directorate of Patrol Unit to conduct such operations. Similarly in the Philippines, the ongoing

17 Pseudonym. Participants' names were changed to protect their identity.

18 Among others, Working Group on Arbitrary Detention (20 March 2019), 'States should stop arbitrary detentions for drug offences, say UN rights experts', www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24369&LangID=E.

19 In a recent policy paper, Lembaga Bantuan Hukum Masyarakat (LBHM) stated that 75% of people who are arrested for drug offences experienced extortion from law enforcement agencies. See Yosua Octavian and Aisya Humaida (2021), 'Potret Penahanan: Minim Bantuan Hukum, Masih Terjadi Penyiksaan, Dan Pemerasan' (Jakarta: LBHM), <https://lbhmasyarakat.org/wp-content/uploads/2021/07/POTRET-PENAHANAN-BANTUAN-HUKUM-LBHM.pdf>.

militarisation of both drug and COVID-19 control means police and the military are equally involved in confronting both issues, with similar (often abusive) tactics.²⁰

This approach is problematic both from a human rights and a health perspective. In terms of human rights, this strategy has led to an increase in discrimination and abuse with little oversight and accountability. In term of health, it appears that individuals from criminalised communities instinctively refrained from entering spaces where law enforcement was or could be present, thus making tracking and isolating COVID-19 patients, as well as addressing other health issues, more complicated.

All respondents in the Philippines reported having experienced curfews and 'other limitations to movement' during the pandemic; 28 were quarantined at home at some point, and 22 were put in quarantine in a hospital or other facility. Twenty-seven reported that a face-mask mandate was in place in their area. As all respondents reside in or around Cebu and were thus subject to the same local measures, and as mask-wearing was made mandatory in public places everywhere in the Philippines, it is likely that those who did not mention such mandate either answered incorrectly or were not aware of it.

In Indonesia, restriction policies vary across provinces, and even among districts in the same province. Across Java - Bali islands, social restrictions were in place during most of the pandemic, with varying degrees of 'tightness' based on infection rates. Respondents who live outside Java - Bali islands, such as in South Sumatera, appear to have been subject to less strict restrictions. The survey responses indicate that one of the policies that has been implemented most widely across the country is the closure of roads, which became a severe barrier for the community to be able access health services (as discussed more in depth in Section 2.4). Respondents also reported other protocols or practices introduced to control the spread of the virus, such as 'raids' to enforce COVID-19 protocols, curfews, spraying of neighbourhoods with disinfectant, mask-wearing mandates, and mandating those who test positive for COVID-19 to self-report to the Head of the Neighbourhood Association.

Regardless of whether they complied - or tried to comply - with lockdown protocols, some of the Indonesian respondents (six) and the majority of Filipino (90%) respondents reported being stopped by law enforcement during the pandemic. In Indonesia, a respondent reported that, when she was stopped by Satpol PP (the municipal police) for not wearing a face mask on her way from the beach to her car, the officers took her picture without her consent. At that time, she was wearing a bikini, and she reported feeling violated for that reason. She confronted the officers who took the picture and managed to stop them from taking more pictures of her. Meanwhile, in the Philippines, at least two respondents also reported harassment and surveillance. One Indonesian respondent was stopped at a checkpoint on his way back from a methadone clinic. He was with a friend at that time, and both of them were subject to a search. The law enforcement officers (consisting of police, military, and Satpol PP) found his methadone. After explaining what methadone is, and showing the label from the methadone clinic (to prove that he obtained the medication legally), he was let go. Although this specific encounter did not have further legal consequences, this kind of experiences can weigh heavily on people's sense of security and stigmatisation, and negatively affect their willingness to travel and access health services - particularly for criminalised individuals. This is evidenced by the fact that - as explored in more depth in

20 Phil Robertson (15 July 2020), 'Philippines Uses 'Drug War' Tactics to Fight Covid-19', *Human Rights Watch*, <https://www.hrw.org/news/2020/07/15/philippines-uses-drug-war-tactics-fight-covid-19>.

Section 2.4 - some respondents decided to resort to the illicit market to access their medication in order to avoid contact with law enforcement. Another Indonesian participant was stopped by police after being suspected of using drugs with six friends. The police went through his phone and interrogated him. Although they all confessed to using drugs, they were released because of a lack of evidence (no drugs were found).

Thirteen of the 27 participants who reportedly had an encounter with the police in the Philippines were stopped once, nine were stopped between two and five times, and one was stopped over five times (four did not specify). For 11 respondents, encounters with law enforcement led to detention (one of them was detained for five hours in a car) - as will be explored more in detail below. Nineteen respondents believed the stop was arbitrary: one of them reported being detained for 12 hours and then mandated to undertake community service despite not having violated any protocol; one was frisked; and one reported the police officer pointing a gun towards him during the stop. Fourteen participants said they experienced some form of abuse by law enforcement. The reported abuse ranged from verbal abuse to physical violence and ill-treatment, including unlawful searches, pointing of guns towards the person, and invasions of privacy. Among others, one participant was “frisked with a baton”, while a female participant was subject to “frisking by male police and was asked if [she] was able to get a client (assuming that [she] was prostituting).” One female respondent recounted: “[They degraded] me asking when will I be done being a sex worker and drug user. The male officers frisked me and checked my cell phone”. Another one had a similar encounter; when found in violation of curfew, they were “not given the chance to explain; [police] checked my cell phone and deleted some of my pictures. Full body frisking was performed.”

Searches, either bodily or of one’s belongings, are highly intrusive and are thus subject to strict standards.²¹ In particular, they must be necessary, reasonable and proportionate, regulated by national law, and carried out pursuant to essential safeguards. In many - although not all - cases, searches can only be undergone with permission from a court or other judicial authority, and/or reasonable grounds of suspect involvement in a crime must be present and supported by evidence. Contrary to these safeguards, the testimonies reported above seem to suggest a pattern of unlawful searches by police and other law enforcement officers either at checkpoints, or for lack of compliance to COVID-19 protocols - none of which are criminal matters. Notably, these searches were not only unlawful, and an abuse of COVID-19 related powers to further target people who use or are suspected of using drugs; they were also completely inappropriate from a health perspective, as they risked putting both the police and the respondents at risk of COVID-19 transmission.

In line with the findings from Indonesia, 13 Filipino respondents reported feeling discriminated against by law enforcement during the pandemic (11 said ‘no’, six did not answer), and many believed they were being targeted in connection with their (suspected) drug use and/or engagement in sex work. This emerges from several testimonies, such as:



“They presumed that I am a prostitute and a drug user since I am still out in the streets late at night”

21 UN Working Group on Arbitrary Detention, ‘Arbitrary detention related to drug policies, UN Doc. A/HRC/47/40 (18 May 2021), <https://undocs.org/en/A/HRC/47/40>.



“I was just outside my house and it was during day time. The policeman approached me and frisked me without giving any explanation. Maybe because I look like a drug addict (whatever that look should be)”



“A police officer asked if we are selling drugs when he saw me and two of my friends talking on the sidewalk. Then came back and asked us what we are: drug users or criminals?”



“Police asked my husband where he bought drugs and, when we denied, he said that he knows that he is a drug user by his looks”

One participant was told by law enforcement supposedly supporting the COVID-19 response, “you are obviously a drug user”, and was warned he would be arrested; while another one concluded: “they frisk people who they consider as drug addict-looking without explanation nor permission.”

It is also worth noting that in the Philippines, of those who described being subject to abuses or discrimination, the majority (71%) said they did not feel like they could safely report the abuse and seek justice. This is not surprising, considering the patterns of human rights violations and impunity reported in the country both in the context of President Duterte’s ‘war on drugs’,²² and the ongoing ‘war on Covid-19.’²³ A similar distrust for law enforcement was mentioned by Filipino participants who reported experiencing gender-based violence during the pandemic: five out of six respondents who answered positively indicated that they did not raise the issue with authorities, either for lack of trust, or because they did not know who to report the issue to.

Arrest, detention and health in detention

Indonesia and the Philippines’ prison systems are gravely overcrowded, with reported occupancy levels of 196%²⁴ and 436%²⁵ respectively. In both countries, punitive drug control policies weigh heavily on prison populations: in Indonesia, almost 50% of all prisoners are detained for drug offences alone (and a third of them for drug use);²⁶ while in the Philippines, drug offences account for over 55% of the total prison population.²⁷ Many detention facilities lack adequate healthcare, ventilation, water, and space - making them an ideal environment for the spread of infectious diseases. For this reason, in the wake of the pandemic governments were recommended to reduce detention and incarceration to a

22 Among others, see: Human Rights Council, ‘Situation of human rights in the Philippines: Report of the United Nations High Commissioner for Human Rights’, UN Doc. A/HRC/44/22 (29 June 2020), <https://undocs.org/en/A/HRC/44/22>.

23 Asia Centre (2021), ‘The Securitisation of COVID-19 Health Protocols: Policing the Vulnerable, Infringing their Rights’ (Bangkok: Asia Centre).

24 World Prison Brief Data: Indonesia, <https://www.prisonstudies.org/country/indonesia> (last accessed 14 October 2021);

25 World Prison Brief: Highest to Lowest – Occupancy level (based on official capacity), https://www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=All (last accessed 14 October 2021).

26 ICJR, LBHM and HRI (February 2020), ‘Submission to the UN Working Group on Arbitrary Detention on detention in the context of drug policies, pursuant to Human Rights Council Resolution 44/22’, https://www.hri.global/files/2020/04/03/LBHM_ICJR_HRI_-_WGAD_Indonesia_Final1.pdf.

27 Philippines Bureau of Corrections, PDL Profile in-Confinement as of May 2021, <http://www.bucor.gov.ph/inmate-profile/PDL-Inconfinement-06212021.pdf>.

minimum, including by “[considering] moratoria [...] on enforcement of laws criminalising drug use and possession,”²⁸ and to “only deprive persons of their liberty as a last resort” (also depending on conditions of detention).²⁹

Despite this, several respondents who reported encounters with the police during the lockdown were subject to arrest and incarceration; in a context of emergency, such as the COVID-19 pandemic, their necessity and proportionality should be critically assessed. In the Philippines, 14 people reported being arrested for violating COVID-19 protocols (for example, by not wearing a mask or not having a quarantine pass) - five of them more than once.

While Filipino respondents were mostly arrested for COVID-19 related violations, in Indonesia most respondents focused on arrests for drug offences, which did not seem to decrease during the pandemic. On the contrary, COVID-19 restrictions increased the risk of people who use drugs being apprehended by police and arrested: before the pandemic, drug transactions were mostly carried out face to face, with the buyer and the seller knowing each other; during the lockdowns, transactions shifted online or to unknown locations, increasing the risk of exchanges or encounters with (undercover) law enforcement.

Both in Indonesia and in the Philippines, informants noted that health safeguards were not always complied with during arrest. For example, one respondent was “crammed inside the police vehicle” for being found on the street without a mask, while he was calling on his son to return home; while another was placed in a crowded cell with a lack of COVID-19 protocols. Respondents from both countries also reported being ill-treated by the police upon arrest:



“During the arrest, I was beaten badly by the police. ... They later asked for a bribe in order to release me.”

Bribery (or, in other words, extortion) is a well-documented practice by law enforcement in Indonesia, especially in drug cases, insomuch that in 2020 Transparency International scored the Indonesian National Police as the 4th most corrupt entity in the country.³⁰ The loss of income experienced by many households since the pandemic began has negatively impacted their ability to pay bribes. A respondent reported that in a case that he assisted as a community paralegal, the police originally asked for IDR 100,000,000 (USD 6,000) to release his client. His client’s family negotiated by saying that they had lost income due to COVID-19. In the end, the police extorted USD 60 from them and released the client.

28 OHCHR (16 April 2020), ‘Statement by the UN expert on the right to health* on the protection of people who use drugs during the COVID-19 pandemic’, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=2579>.

29 OHCHR (27 April 2020), ‘Emergency measures and COVID-19: Guidance’, https://www.ohchr.org/Documents/Events/EmergencyMeasures_Covid19.pdf.

30 CNN Indonesia (4 December 2020), ‘Survey TII: DPR Lembaga Paling Korup’, <https://www.cnnindonesia.com/nasional/20201204075231-32-577831/survei-tii-dpr-lembaga-paling-korup>.

Nine participants from the Philippines reported having been detained or incarcerated during the pandemic. One was in prison when the pandemic started, four were incarcerated for violating COVID-19 protocols (between 12 hours and one month), and one for drug possession; three did not provide further details. Some participants denounced the lack of health safeguards in detention facilities - such as lack of social distancing, masks, and ventilation - and one reported ill-treatment by staff:



“I was tortured when I was detained. They wrapped my face to cover and beat me”

Respondents in Indonesia painted a similar picture. People who use drugs arrested for drug offences during the lockdowns were put in detention while waiting for the charges to be processed. Some respondents, who are active community paralegals and kept providing legal assistance during COVID-19, feared that their clients would be exposed to COVID-19 due to the lack of COVID-19 protocols in detention (including safe social distancing). In some cities where detention centres no longer accepted new detainees, those under arrest were confined in police cells, which (in most cases) are a lot smaller than detention centre cells. Some respondents also reported that the police did not test detainees for COVID-19, heightening the risk of exposure for both people in detention and staff. On the contrary, according to another respondent from Medan, North Sumatera, who is an active community paralegal, detainees only underwent COVID-19 tests every two weeks. Considering that people who use drugs are often at high risk of contracting COVID-19 due to pre-existing health conditions such as tuberculosis, HIV, and/or hepatitis C, the lack of adequate health protocols and/or their inconsistent application placed them (and their fellow detainees) at significant risk of contracting the virus.

2.4 Impact of covid-19 and related measures on the health of people who use drugs and their access to health services

Impact of COVID-19 and related measures on drug use and drug treatment

COVID-19 has had a major effect on people’s lives, not only because of the virus but also because of the consequences of the changes and challenges this brought to daily life - such as loss of income, the inability to move freely outside one’s house and community, and disruptions to health and other social services. For people who use drugs, COVID-19 has impacted their drug use,³¹ which in some situations also affected their general health condition.

COVID-19 restrictions did not stop drug use, and people continued trying to purchase drugs. One respondent from Indonesia reported that it became more difficult and precarious to look for drugs, and that changes to availability or drug consumption patterns negatively affected her mental health: “It is hard to get drugs because we have to wait [until the road closure is lifted] and usually it is already late. Things like this have a big impact on (my) mental health.” Another respondent reported that because of her loss of income she could not afford to buy drugs. The stress caused by the pandemic might also

31 Among others, see: R INPUD (August 2020), ‘INPUD Online Survey on COVID-19 & People Who Use Drugs (PWUD) Data Report 2’; EMCDDA (April 2021), ‘Impact of COVID-19 on drug markets, use, harms and drug services in the community and prisons’ (Lisbon: EMCDDA), https://www.emcdda.europa.eu/system/files/publications/13745/TD0321143ENN_002.pdf.

lead to increased consumption of drugs and alcohol, at a moment when it is even harder to access drug treatment or other support that may be needed:



“COVID-19 becomes a stressor. [Before COVID-19] I had stopped consuming drugs and alcohol, now I started to consume those again.”

Indonesian respondents also faced challenges in accessing harm reduction and drug treatment services during the pandemic, especially because of road closures and curfews. One respondent, who needed to travel to a neighbouring city to access methadone, reported that he was not allowed to pass through the checkpoints despite explaining his medical need. These developments pushed some respondents to resort to the illicit market to continue with their methadone or benzodiazepine treatment, which could imperil both the health and the security of people who use drugs. From a health perspective, the methadone or benzodiazepine bought from the illicit market might have a lower purity level, contain harmful adulterants, and lead to health problems. From a security perspective, buying methadone and benzodiazepine from the illicit market puts people who use drugs at increased risk of being arrested for drug offences and/or for violating COVID-19 protocols, while such risk is reduced when the medication is obtained from clinics.

In addition to the above-mentioned challenges caused directly by COVID-19 protocols, some local authorities have failed to take into account the economic challenges caused by COVID-19 restrictions when renewing or updating a policy. In Indonesia, some clinics expanded Opioid Agonist Therapy (OAT) take-home capacity by allowing for longer take-home periods. However, a respondent who accesses methadone in Bogor, Indonesia, reported that the retribution fee (which is paid to the public clinic for each bottle used to contain the daily dose of methadone that the person takes home or consumes at the clinic) was increased to more than twice its original price.³²

This increased cost barrier meant that him and his friends could not benefit from the increased OAT flexibility, and had to continue accessing methadone on a daily basis, as they could not afford to pay the higher fee. This has had the effect of placing increased stress on an already limited income, and heightening exposure to both COVID-19 and law enforcement because of daily trips to the clinic.

Another Indonesian participant reported stock-outs of benzodiazepine in his local clinic. Clients usually get a monthly dose of benzodiazepine as part of their OAT, but because of the stock-out they could only be provided with enough doses for a few days, meaning they would have to travel to the clinic more often. Again, this led to a heightened risk of being stopped by law enforcement as well as to the virus, and to an increase in travel expenses. Further, with the price of a single dose being higher than a monthly dose, the essential medicine has become less and less affordable.

Not all people who use drugs experienced disruptions to their access to OAT. Despite self-isolating because of COVID-19, one respondent in Bogor, Indonesia, was still able to access his methadone, as the

32 Peraturan Wali Kota Bogor No. 19 Year 2021, https://dinkes.kotabogor.go.id/po-content/uploads/Tentang_Tarif_Layanan_Badan_Layanan_Umum_Daerah_Unit_Pelaksana_Teknis_Daerah_Pusat_Kesehatan_Masyarakat_dan_Unit_Pelaksana_Teknis_Daerah_Laboratorium_Kesehatan_Daerah_Kota_Bogor.pdf.

methadone therapy coordinator in his clinic supported delivery of the medicine. But it is important to note that this was not always the case, as different clinics had different regulations or afforded different degrees of flexibility.

Access to COVID-19 health services by people who use drugs

Only two respondents from the Philippines said they had COVID-19 between March 2020 and July 2021 - one of whom reported not having been tested for the virus. Notably, 25 out of 30 respondents divulged that they had never been tested, which likely impacted on their awareness of their COVID-19 status. The remaining five underwent mandatory testing in jails (once upon arrest, and once upon release - indicating some compliance with health protocols in detention settings), hospitals, and hotels. On this point, it is worth noting that COVID-19 testing rates in the Philippines are very low, with asymptomatic cases often escaping detection and the real number of cases suspected to be much higher than officially reported.³³ As only symptomatic individuals can access COVID-19 testing through health insurance or subsidies, while asymptomatic persons are more likely to pay for testing out of pocket, most answers related to COVID-19 infections were based on self-assessments and experiencing symptoms rather than test results.

Mistrust of authorities (which has been reported in the general population³⁴ but tends to be even stronger among historically marginalised and criminalised communities), misinformation about COVID-19 and available support, as well as fear of stigmatisation and punishment also impacted on the reporting of cases, and thus on the reliability of government data; as well as on the overall effectiveness of the response. For example, Indonesian respondents reported knowing individuals in their neighbourhood who tested positive for COVID-19 but decided not to report their status to the local authority because of the stigma against people who tested positive for COVID-19 in the community, and fear of being relocated to government facilities.

Those who tested positive for COVID-19 at some point, all of which self-isolated at home, shared that they did not receive any support - including medication or vitamins - from the local health centre, despite having reported their status, and despite a promise made by the Ministry of Health of Indonesia to support self-isolated persons. Three respondents had to pay for their own COVID-19 test, vitamins, and other needs throughout their self-isolation, and some received support from their peer community and/or civil society organisations:



“During my self-isolation, support came from my fellow community members, not from the government. The community sent me basic staples, vitamins.”

Another respondent from Indonesia, a woman living with HIV, reported that upon contracting COVID-19 she experienced HIV-related health complications and that, with assistance from her peers, she tried

33 Bonz Magsambol (29 March 2021), 'Despite surge in COVID-19 cases, DOH says PH has no mass testing plans', *Rappler*, <https://www.rappler.com/nation/doh-says-philippines-no-plans-conduct-mass-testing-surge-coronavirus-cases>.

34 Laporan Covid-19 (18 August 2021), 'Kekuasaan dan Militer Dalam Merespon Pandemi: Bukti dari Lapangan', <https://laporcovid19.org/post/kekuasaan-dan-militer-dalam-merespon-pandemi-bukti-dari-lapangan>

going to a hospital for treatment. She did not disclose that she had COVID-19. Instead, she told the hospital about her HIV status, because she wanted the health complication from her HIV condition to be treated first. She was rejected by four different hospitals due to the lack of available beds, and eventually decided to self-isolate with support from her community:



“I believe that, at that time, I needed to follow up my HIV status first. If I told them I have COVID-19, they might admit me [at the hospital]. But [with my condition], it is my HIV complication that [I believe] needs to be treated first, not COVID-19. That is why, at the hospitals, I did not tell them about COVID-19.”

More information emerged from the Philippines around quarantine detention, with similar issues raised to in jails and prison. In particular, ten participants experienced quarantine detention for periods of between five hours and a month. Four of them reported facilities being crammed, hot, and lacking adequate ventilation.

Vaccination, and community perspectives on the COVID-19 vaccine

Only one of the 30 respondents from the Philippines had been vaccinated as of 12 July 2021 - consistent with the low vaccination rate reported among the general population.³⁵ Among those who had not been vaccinated, seven declared that they do not plan to seek vaccination, mostly because of concerns around the safety of the vaccine, low trust in Sinopharm, and concerns around the health impacts and potential side effects of the vaccine - particularly for people living with HIV and/or with a weak immune system. Some of the justifications given for not wanting to be vaccinated included: “Danger to our health because of my status as low immune system”; “fear of side effects because of my status as an HIV patient” and, “[I] [d]idn’t know the side effects, [I] heard from the news that lots died because of the vaccine.”

Notably, one Filipino participant revealed they did not know what a vaccine was, and several pointed at the news as their main source of information on the vaccine. A similar pattern was recorded in Indonesia, where - among others - one respondent mentioned that she feared the side effects of the vaccine as she mainly relied upon social media and there was a lot of (false) information on the vaccine. Another one was not interested in being vaccinated as “even though you have been vaccinated, you can still be infected by COVID-19 anyways.” Three informants decided to wait and gain a better understanding of the potential side effects of the vaccine for people living with HIV and people who use methadone, or until receiving the results of their CD4 test³⁶ or other health assessments. These answers tend to suggest misinformation, as well as a lack of trusted, reliable, accessible, and tailored information on the safety and effectiveness of the vaccine and its potential side effects, particularly for individuals with underlying health conditions, and in relation to drug use and HIV status.

The vaccinated respondent in the Philippines indicated that law enforcement was not present during vaccinations and that no information was collected that they did not feel comfortable providing. Of those

35 As of 12 July 2021, 8.9% of the population had received at least one dose of vaccination in the Philippines: <https://ourworldindata.org/covid-vaccinations?country=PHL>.

36 A ‘CD4 test’ is a test that helps assess the health status for people living with HIV.

waiting to be vaccinated, four expressed concerns about the kind of information they would be asked to share in order to access the vaccine. Meanwhile in Indonesia, where two respondents received at least one dose of the vaccine and three respondents had been fully vaccinated, some shared that they decided not to mention their drug use when they were asked about any history of health concerns prior to the vaccine being administered. Indonesian respondents also denounced failures to comply with COVID-19 health protocols during the vaccination process - mostly in the form of a lack of physical distancing.

Availability and accessibility of other health services during the pandemic

The survey responses indicated that the pandemic, as well as measures introduced to control the spread of the virus, impacted on participants' ability and/or propensity to access health services. This reflects findings from other studies, including by UNAIDS, on the impact of lockdowns and travel restrictions, border closures, diversion of health resources, and financial stress on people living with HIV and other vulnerable groups, which documented disruptions in HIV services and reductions in HIV diagnoses and treatment initiations, including uptake of ARV.³⁷

Forty-three percent of participants from the Philippines indicated that their access to health services and medicines, including dentists, ARV, and birth control, was somewhat disrupted - mostly because of a lack of medical professionals, fear of COVID-19 infection upon accessing health facilities, or because lockdowns and lack of quarantine passes impeded their ability to travel to clinics. One respondent lamented that hospitals were 'overwhelmed' with COVID-19 patients, making access to other services impossible. This is in line with civil society reports highlighting the negative impact that COVID-19 had on access to medical services, such as check-ups and follow-up consultations; key issues were the closure of out-patient departments, as well as the repurposing of funds and technologies towards the COVID-19 response (the so-called 'Covidization of healthcare').³⁸ Notably, at the time of the data collection, some respondents were undergoing HIV treatment in a facility run by IDUcare, which closed temporarily following the announcement of the lockdown in March 2020. People were also struggling to reach the facility because of the lack of public transportation. To prevent patients from losing access to essential care, IDUcare quickly adapted their operations and shifted towards door-to-door delivery of services. Similarly, in Indonesia, a respondent who works at an HIV organisation reported that since the outbreak of COVID-19, outreach workers were employed to deliver ARV upon request, to ensure continuity of treatment. There are many similar examples of services around the world proactively adapting to safeguard access to harm reduction and HIV treatment during the pandemic.³⁹

The most concerning finding, however, is that the majority of Filipino participants (17 out of 30) decided not to travel to or access health services not for fear of COVID-19, but rather for fear of punishment or other negative repercussions. While two were discouraged by the risk of penalties and fines imposed for violating COVID-19 health protocols, others were intimidated by the presence of law enforcement and

37 Among others, see: UN General Assembly, 'Sexual and reproductive health rights: challenges and opportunities during the COVID-19 pandemic', UN Doc. A/76/172 (16 July 2021); UNAIDS (2021), 'Prevailing against Pandemics by Putting People at the Centre' (Geneva: UNAIDS), https://www.unaids.org/sites/default/files/media_asset/prevailing-against-pandemics_en.pdf.

38 Gideon Lasco and Joshua San Pedro (7 June 2020), 'The 'covidization' of health care', *Inquirer.net*, <https://opinion.inquirer.net/130544/the-covidization-of-health-care>; CNN Philippines (25 March 2020), 'LIST: Medical groups, doctors open online consultations to decongest COVID-swamped hospitals', <https://cnnphilippines.com/lifestyle/2020/3/25/online-consultation-services-coronavirus-COVID-list-Philippines.html>.

39 Dania Putri, Sam Shirley-Beavan and Jamie Bridge (July 2021), 'Innovation and resilience in times of crisis (Part 2): The response to COVID-19 from harm reduction services' (London: IDPC), https://www.hri.global/files/2021/07/12/HRI_IDPC_Briefing_Innovation_Resilience_Harm_Reduction.pdf.

the fear of abuse, overreach, or harassment - in some cases motivated by previous negative experiences and/or living in over-policed communities. Several testimonies share similar preoccupations:



“Because of the extra power and strict implementation by the police, I am still reluctant to leave my house even if I have a quarantine pass, because I witnessed someone being harassed by the police even if he had shown them his pass.”



“(I have) fear because they bring long firearms and baton.”



“Because I witnessed someone detained because of that.”



“Strict protocol, fear that evidence be planted because of needle marks.”

These testimonies mirror findings from both Indonesia and the Philippines detailing how the central involvement of law enforcement in the COVID-19 response has proven to be an obstacle to its effectiveness, because of the distrust, fear and scepticism that much of the population feels towards law enforcement.

Indonesian informants expressed similar concerns with the current situation, and added comments on the financial strains related to accessing health services, in a time of heightened economic vulnerability and additional expenses. One respondent explained that seeing a doctor required proof of a negative COVID-19 test, but that the test is not always affordable for people with decreased or no income:



“It is complicated now. We have to bring a negative swab result to see a doctor. We are in the middle of experiencing sickness and now we are asked to provide a negative result.”

People living with HIV faced similar challenges as they had to do health checks (for example, to check their CD4 levels) in private labs because government hospital labs were overwhelmed with COVID-19 cases. Consequently, they had to pay for the health checks themselves. They were also hoping that the clinics would consider allowing for bimonthly ARV disbursement to limit the need to travel, but this has yet to happen. A respondent who works as a sex worker reported facing condom stock-outs.

The combination of COVID-19 and its impact on daily life, reduced income, and increase in living costs had severe repercussions on some participants' mental health, exacerbated by difficulties in accessing support. When asked about access to mental health treatment, one respondent mentioned that she ended up acquiring anti-depressants on the illicit market because she feared she would be exposed to COVID-19 if she had to queue in a hospital to see a psychiatrist and collect medication:



“I haven’t consumed my medication for more or less a year now. Registration to see my psychiatrist can be done online, but since I am using government health insurance, I have to line up in person to access the reference letter, and once I get it, I have to line up again to see the psychiatrist. It is twice the process and (there are) too many people.”

2.5 Community perspective on policing and surveillance, and covid-19 policies

Community’s views on increase in policing and surveillance

Participants were asked whether they felt like abuse of force, policing, and surveillance - already prevalent in their communities before COVID-19 - had increased since the start of the pandemic. The majority of those who answered this question reported an increase in surveillance and abuse by authorities. Some respondents in the Philippines noted an increase in police presence and activity in the community. Similar sentiments on police presence were shared by the Indonesian respondents, who as a consequence were not comfortable going out. One participant said that he felt burdened with how COVID-19 restrictions affected his access to methadone daily. Filipino participants shared that police are “roving always in the area”, that “police visibility in the area tripled”, and that “more policemen are seen in the community than on normal days.” Similarly, one participant concluded that “mandatory home quarantine made the community very crammed up so surveillance and policing increased”. Heightened policing was perceived as not only unnecessary and concerning, but also as enabling overreach, abuse of power, and “harassment in implementing protocols” with impunity, leading to a climate of fear:



“Yes, [police] enjoyed the excess powers given to them and then abuse it.”



“[Law enforcement] began to abuse their power since they were in control over the people since the pandemic because we were told to stay home and if you are caught outside, whatever your reasons are, they make it appear like we are violating the law.”



“I see people arrested for petty reasons and crammed in a very small room or vehicle;”



“There are always policemen in the area. They always reprimand and threaten people of getting arrested if somebody defies.”

The impact of this increase in policing and targeting on people’s and communities’ sense of security must be understood within the broader climate of violence, harassment, and impunity prevalent in both countries. In the Philippines, since President Duterte came into power in 2016, a brutal ‘war on drugs’ has resulted in up to 30,000 extrajudicial killings at the hands of law enforcement or unidentified vigilantes; and attempts to silence dissent have taken place through red-tagging, harassment, and summary executions.⁴⁰ In Indonesia, people who use drugs continue to be targeted and arrested by police, sometimes with no evidence of drugs in their possession, and people charged for drug offences continue to make up the majority of the prison population.⁴¹

In this context, some participants from both countries highlighted how COVID-19 control became a new tool for law enforcement to target people who use or are suspected of using drugs, suggesting a continuum between the governments’ responses to the pandemic, and their violent war on drugs. As one respondent summarised, “the target is the drugs, not the health violation.” According to several participants, “drug users and pushers are arrested every day” by police supposedly tasked with promoting compliance with COVID-19 health protocols. As a consequence, respondents felt more vulnerable and exposed, especially in relation to their drug use, fearful to leave home, and disproportionately targeted. On this, several participants from Indonesia expressed their belief that people who use drugs continued to be arrested during the pandemic because they are an easy target, and law enforcement agencies benefit from their extortion.

40 Among others, see: Human Rights Council, ‘Situation of human rights in the Philippines: Report of the United Nations High Commissioner for Human Rights’, UN Doc. A/HRC/44/22 (29 June 2020), <https://undocs.org/en/A/HRC/44/22>.

41 Awaludin Muzaki (2021), ‘Pemenuhan Hak Pengguna Narkotika di Masa Pandemi COVID-19’ (Jakarta: LBHM), <https://lbhmasyarakat.org/wp-content/uploads/2021/03/LBHM-Pemenuhan-Hak-Pengguna-Narkotika-di-Masa-Pandemi-COVID-19.pdf>, pag. 18.

Community's views and recommendations on the COVID-19 response

Respondents recommended three key areas of improvement in their respective government's COVID-19 responses:

- a) More efficient and less intrusive health protocols (such as more widespread vaccination and removal of lockdowns), better implementation of health-related COVID-19 measures, and better coordination among different government agencies, and between the local and national government:



“Access to health services should not be made difficult. And if [the government] wants to apply a regulation, they should have thought about how people with the lowest income could survive.”

In line with this, respondents suggested increased transparency and the provision of evidence-based, reliable information on the COVID-19 situation was essential.



“I would like the government to be more honest with the statistics of the real score of the pandemic.”

At the same time, an urgent need was highlighted to integrate and more effectively balance these measures with more substantial socio-economic support and opportunities. Respondents felt the impact of lockdowns and other restrictions on livelihoods was so dire that COVID-19 control measures were perceived not as essential measures to safeguard health, but primarily as the cause for their loss of jobs and incomes. As raised by Indonesian respondents, effective socio-economic support needs to be complemented by accessible information and tailored awareness-raising on the kind of assistance available, the criteria for eligibility, and pathways to access such support:



“On one hand, we have to fulfil our family's needs, paying for (online) schools. On the other hand, we could not go anywhere because the road was closed.”

- b) A shift away from punishment and surveillance, coupled with more focus and resources dedicated to comprehensive, health-focused strategies and underlying determinants of health, socio-economic support, and community empowerment and participation. This also requires provision of PPE and of evidence-based information, accessible and tailored to its prospective recipients. This emerged clearly in several recommendations made by Filipino respondents:



“They should not arrest people for not wearing face-masks because not everyone can afford them. The Government should provide facemasks instead of arresting those not wearing one.”



“Proper information dissemination and educating the people about the situation will result in better implementation of protocols. People are educated only after being arrested for violating a protocol that they never have heard of and were not informed about.”



“Not to give police excessive powers since it will get abused. Educate people of what the situation is and give clear directions on what is to be done and explain why instead of just arresting them right away when they don’t even know why.”

The same need for better information and awareness-raising was highlighted in Indonesia:



“The regulation could change significantly over the night, meanwhile not everyone can access the news fairly quickly.”



“Access to information needs to be clearer for our friends who need treatment in a hospital but the hospital is fully occupied, for those who are currently self-isolating.”

Similarly, one participant commented that the government, including law enforcement agencies, should focus on COVID-19 and take a less punitive approach towards people who use drugs, including by refraining from conducting arrests for drug use and possession.

- c) A review and substantial reform of law enforcement involvement in the health response, including by taking steps to ensure “that our law enforcers always follow the proper and correct procedure when arresting someone with or without emergency powers,” and to prevent and redress abuse against people who use drugs. One Filipino participant aptly summarised:



“I feel the government’s approach to the crisis was not appropriate, especially on the lockdown, checkpoints, quarantine, aid; the military is ruling - like the Head of the COVID-19 crisis in Cebu City. Seeing tanks on the street, and so many military personnel everywhere is just making the crisis worse, making us feel like we are at war. What are the tanks for? To shoot people or the virus? The government is causing fear on the people - not with the virus but with the law. It’s like imposing martial law on the people and magnifying COVID-19 as an alibi.”

3. CONCLUSIONS

Confronted with the spread of COVID-19, several governments – including those of Indonesia and the Philippines - leveraged emergency executive powers to develop and implement policies focused on surveillance, criminalisation, and punishment, placing police and the military at the centre of the response. Conversely, limited attention was paid to social and economic support, community empowerment, and transparency - essential components of any successful public health response. While somewhat exceptional, the centering of security actors and narratives into public health spaces is in fact not a new strategy, but rather a novel manifestation of a broader trend towards the encroachment of law enforcement in health spaces, which in the past seventy years has found clear expression in the global as well as national 'wars on drugs'.

While uncritically supported by many governments, punitive drug control strategies have proven detrimental not only to human rights - enabling abuses and violations - but also to individual and public health, being patently ineffective to solve the very health issues they were introduced to address. People who use drugs as well as other marginalised communities - such as sex workers, people living with HIV, the urban poor - became the key targets of these repressive policies, and have been disproportionately impacted by them. The introduction of parallel punitive responses to confront a new public health threat - COVID-19 - has similarly compounded the vulnerability of these communities by heightening their exposure to the virus, arrest, detention, surveillance, violence, and abuse of force.

The testimonies collected in both Indonesia and the Philippines confirm that the securitisation of the COVID-19 response resulted in an increase of law enforcement presence and activity in already targeted and marginalised communities. The additional, often unchecked powers that police were vested with, were in several cases abused to further criminalise people who use, or are suspected of using, drugs. This combination of punitive anti-drug campaigns and securitised COVID-19 control compounded the vulnerability of people who use drugs and their communities by exposing them to a heightened risk of discrimination, harassment, and violence, as well as COVID-19 transmission. As such, these testimonies clearly highlight the fallacies of securitised responses to complex health issues: the focus on control and punishment, and the empowerment of law enforcement actors rather than health professionals and communities, translated into widespread lack of transparency and misinformation, mistrust, and even exposure of the population to health risks. Limited financial resources were invested in patrolling and surveillance, while families and marginalised groups struggled without social and economic support required to comply with health protocols in the first place.

Responsibility for the failure to control the spread of the virus was thus shifted from the government onto individuals, who were often left facing an impossible choice between providing for themselves and their families on the one hand, and facing the risk of COVID-19 and criminalisation on the other. The result was a vicious cycle of increased marginalisation and stigmatisation, heightened precarity, poverty, and inequality. In this context, many found support in communities, networks of peers, and civil society organisations, which quickly adapted their operations to ensure the assistance the government failed to provide.

With punitive strategies typical of drug control replicated to confront COVID-19, people who use drugs (or people who are involved in the drug market) noted the misuse of new law enforcement powers as an additional tool to control and target them, creating a war on drugs - war on COVID-19 - war on the poor continuum. Drug-related arrests continued during the lockdown, by the same authorities supposedly

tasked with safeguarding community health, while suspected violations of health protocols became a new excuse to reprimand, drug test, stop and search people who use drugs; with no oversight or accountability for abuses. This led to human rights violations, including in the form of arbitrary arrest and detention, ill-treatment, and violations of the right to privacy. It also had a chilling effect on access to health services, both in relation to COVID-19 and for pre-existing conditions, by people who use drugs and their communities; effectively becoming an obstacle to the successful control of the pandemic, while also impinging on the treatment of other health issues. As such, the pandemic experiences of people who use drugs provide a glimpse into the negative and potentially far-reaching consequences of centering law enforcement in the response to health crises, particularly on communities with a history of criminalisation, but inevitably also on the general community.

Respondents' lived experiences with pandemic responses and law enforcement enabled them to give clear recommendations for how to adjust course: transparency, accountability, reform of law enforcement powers and diversion of resources towards health and its underlying determinants, socio-economic support, and community empowerment.

Annex 1

SURVEY TOOLS

COVID-19, and governments' response to its outbreak, is having an unprecedented impact on peoples' lives. In many cases, the response to COVID-19 has featured an expansion of law enforcement powers, resulting in increased policing, surveillance, and deprivation of liberty. Vulnerable and marginalised populations have reportedly been negatively impacted by these developments.

This survey is aimed at assessing the impact of these securitised responses on your rights and liberties, and on your health. We will ask you about your experiences and perceptions during the COVID-19 pandemic, with a focus on policing and surveillance.

We encourage you to include any details you feel comfortable sharing about encounters with law enforcement, and your fears and concerns surrounding the COVID-19 response. The information you share will be kept confidential.

DEMOGRAPHIC

- Age

- 18 – 22 22 – 30 30 – 45 45 – 60 Over 60

- Gender

- Male Female Trans Non-binary Other Prefer not to say

- Country you currently (since pandemic) live in

- Indonesia Malaysia Philippines Singapore Sri Lanka Other

- Nationality

- Employment

- Fixed Freelance Unemployed

- Would you define yourself as: (all appropriate)

- Person who uses drugs Sex worker Person living with HIV
 Member of the LGBTQI+ community Migrant worker
 Other

IMPACT OF COVID-19?

- Were any of the following measures put in place where you live, to control the spread of COVID-19?

- Curfews Limitations to freedom of movement (i.e. lockdown)
 Mandatory quarantine at home Mandatory quarantine in detention facility
 Mandatory face mask Testing
 Other:

- Were you infected with covid-19?

- No Yes I don't know/I am not sure Prefer not to say

- Were your income and employment negatively affected by the pandemic?

No Yes

- Details

Prefer not to say

- Was your housing situation negatively impacted by the pandemic?

No Yes

- Details

Prefer not to say

- If you replied yes to any of the above, did you receive any economic or other support by the state?

No Yes

- Details

Prefer not to say

- Is there anything you want to add on this section?

CONTACT WITH THE POLICE OR OTHER LAW ENFORCEMENT DURING THE COVID-19 PANDEMIC

- During the COVID-19 outbreak, did you break curfew or other lockdown measures?

No Yes

If yes, for what reason? (work, family, other reasons)

Prefer not to say

- During the COVID-19 outbreak, were you stopped by law enforcement in connection with COVID-19 control measures?

No Yes

- How many times?

- Did it lead to a fine, arrest, or detention?

- Did you feel the stop to be arbitrary, and if so why?

- Any more details?

- During the COVID-19 outbreak, were you arrested in connection with COVID-19 control measures?

No Yes

- How many times?

- Was a reason provided for your arrest?

- During arrest, were COVID-19 health safeguards respected (masks, distancing, etc)?

- Were you subject to degrading or abusive treatment?

- During the COVID-19 outbreak, did you experience any form of verbal or physical abuse or ill-treatment by the part of law enforcement?

No Yes

- Details

Prefer not to say

- If you indicated experiencing any ill-treatment by law enforcement during the COVID-19 outbreak, did you feel like you could report your experience to the authorities?

- Details

- Do you feel like abuse and ill-treatment by law enforcement has increased in your community* since the COVID-19 outbreak? And if so, in what ways?

- Details

- During the COVID-19 outbreak, did you experience any form of discrimination by the part of law enforcement?

No Yes

- Details

Prefer not to say

- Overall, since the outbreak of COVID-19 do you feel like your community has been subject to more policing/increase in targeting and surveillance by law enforcement?

No Yes

In what ways?

- How does this make you feel? (safer, disproportionately targeted, more vulnerable)

Don't know/prefer not to say

- Is there anything you want to add on this section?

GENDER-BASED VIOLENCE DURING COVID-19

- Did you experience gender-based violence during the COVID-19 outbreak?

No Yes Prefer not to say

- If you responded 'yes', did you report it to the police/law enforcement agencies?

No Yes

- If you did not report it, what was your main concern?

I don't trust the police

I am afraid I will be detained/criminalised because I am part of the communities

I can handle it myself I don't know how to report

Other:

- If you reported it to the police, how would you rate your experience?

I am satisfied and feel protected I am not satisfied and do not feel protected

DETENTION DURING COVID-19

- During the COVID-19 outbreak, have you been incarcerated?

Yes

- Where were you detained?

- What it was for? (COVID-19 related, other)

- Length of stay

- Conditions of detention (ventilation,..)

- Respect of COVID-19 safeguards (face masks, sanitizer,... for both detainees and staff, distancing)

No

Prefer not to say

- During the COVID -19 outbreak, have you been detained in quarantine centres or other detention facilities not specified above?

Yes

No

If yes, can you provide more details on:

- Length of stay

- Conditions of detention (ventilation, ..)

- Respect of COVID-19 safeguards (face masks, sanitizer,... for both detainees and staff, distancing)

Prefer not to say

- Is there anything you want to add on this section?

COVID-19 VACCINATION

- Have you been vaccinated for COVID-19?

No Yes Prefer not to say

- If you responded yes, was law enforcement present?

No Yes, but it did not bother me Yes, and it did bother me Prefer not to say

- If you responded yes, was any personal information collected that you did not feel comfortable providing?

No Yes (details):

- If you responded no, do you plan on getting vaccinated when the vaccine becomes available?

Yes No I am not sure Prefer not to say

- If you responded no or not sure, do you have any concerns about personal information that you will have to provide?

No Yes Details

- Details:

I don't know/prefer not to say

HEALTH SERVICES

- Have you been tested for COVID-19?

No Yes

- Where did you do COVID-19 test?

Hospital Primary health clinic Private clinic My office

Mobile COVID-19 test Government office Other

- Was it mandatory?

No Yes

- Why? (requirement for travel, requirement for work)

Prefer not to say

- Was law enforcement involved in COVID-19 test?

No Yes, and it did not bother me Yes, and it bothered me

- In what way does law enforcement is involved in COVID-19 test?

Registration process Guarding/securing the test centre

Observing the swab/blood test process Others:

- Has your access to non-COVID19 related health services during the pandemic been disrupted? This includes access to sexual and reproductive health services, harm reduction and drug treatment, antiretroviral treatment,

No Yes

-If yes, how? [open question]

I didn't seek any health service

- Since the COVID-19 outbreak, have you refrained from travelling to or accessing health services for fear of police harassment or surveillance?

No Yes - More details?

Prefer not to say

FINAL QUESTIONS

- What is the main thing you would like to see change in your government's COVID-19 responses?

- Is there anything else you would like to share?

- Can we contact you for more information? [leave contact - if safe option]