

Reassessing Penal Dominance in Indonesian Narcotics Law Through International Legal Comparison

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Abstract

Indonesia faces significant challenges in narcotics control, particularly in balancing punitive enforcement with rehabilitation mechanisms. This study adopts a normative legal research approach to compare Law No. 35 of 2009 concerning Narcotics with the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Using statutory, conceptual, and comparative approaches, this study analyzes the regulatory orientation of Indonesia's penal and non-penal strategies, particularly as reflected in the policy framework of the National Narcotics Agency (BNN). The analysis indicates that Indonesian legislation adopts a stringent enforcement model, including the possibility of capital punishment for certain trafficking offenses, whereas international standards emphasize proportionality, international cooperation, and preventive mechanisms. Although national law formally recognizes medical and social rehabilitation, its regulatory orientation remains predominantly enforcement-centered. The study also identifies normative and institutional shortcomings in the coordination between BNN and other agencies, such as the police, the Ministry of Health, and UNODC. It highlights the need for clearer communication frameworks, strengthened rehabilitation pathways, and closer alignment between Indonesia's narcotics legislation and international standards. By reinforcing proportional penal measures alongside structured non-penal mechanisms and enhanced inter-agency and international cooperation, Indonesia may improve the coherence of its narcotics governance framework. A balanced approach that integrates law enforcement with rehabilitation remains essential within a sustainable and legally consistent drug control strategy.

1. INTRODUCTION

Indonesia faces multiple challenges in combating drug trafficking, particularly in the areas of regulatory harmonization, law enforcement effectiveness, and the implementation of non-penal control measures. Data from the National Narcotics Agency (BNN)¹ indicates that 1.77% of individuals aged 10 to 59, equating to 3.38 million people, engaged in drug misuse in 2017. In 2023, BNN identified 37 drug syndicate networks, comprising 15 domestic and 22 international. Drug trafficking encompasses individuals and transnational organized crime syndicates.² Substance abuse impacts both individuals and society. Individuals who use drugs often contend with social stigma, isolation, and interpersonal interactions. The latest comprehensive national assessment estimated that drug misuse incurred economic losses amounting to IDR 84.7 trillion in 2017, covering rehabilitation, law enforcement, and productivity losses. Although updated national cost calculations have not yet been officially published, recent UNODC data (2019–2023) indicate persistently high levels of drug-related crimes and significant seizure volumes in Indonesia, reflecting the continuing scale of narcotics trafficking. In addition to its economic burden, drug misuse poses severe health risks, including damage to vital organs, mental health disorders such as depression and anxiety, and the transmission of infectious diseases through needle sharing. These interconnected economic, legal, and public health consequences demonstrate that drug trafficking constitutes a multidimensional challenge requiring an integrated approach that combines penal enforcement with non-penal, health-oriented control measures.³

BNN is essential in combating drug-related concerns in Indonesia, as articulated in Presidential Regulation Number 23 of 2010 about the National Narcotics Board. Article 2, paragraph (1) of this regulation mandates BNN to formulate and execute national strategies for the prevention and eradication of narcotics misuse and drug trafficking. Article 4, paragraph (1) of the regulation stipulates that BNN is authorized to investigate and prosecute drugs offenses. BNN employs both criminal and non-penal strategies to enforce legislation against narcotics offenders. The non-penal approach emphasizes public awareness initiatives, rehabilitation, education, and collaboration with many institutions to enhance drug awareness. This methodology is reinforced by the Narcotics Law of the Republic of Indonesia Number 35 of 2009, which delineates the protection of drug users, rehabilitation, and measures against illicit drug trafficking networks. This comprehensive strategy tackles Indonesia's narcotics threat through rigorous law enforcement and preventive measures.

However, despite the existence of laws and policies, there are significant gaps in their implementation. For example, while Law No. 35 of 2009 provides a legal framework for narcotics control, its practical enforcement remains inconsistent, particularly in combating transnational drug trafficking networks. Compared to international standards, particularly the 1988 UN Convention, Indonesia's legal framework demonstrates strong punitive measures, including severe criminal sanctions. However, regulatory gaps remain in the clarification of organized crime structures and alignment with certain global coordination mechanisms for drug control. Furthermore, empirical evidence suggests that although rehabilitation and treatment programs may contribute to reducing re-arrest and recidivism in certain contexts, their effectiveness remains highly dependent on implementation quality and institutional support.⁴ Indonesian studies also indicate that rehabilitation programs encounter structural and coordination challenges that may hinder their optimal implementation.⁵ These gaps in both penal and non-penal strategies indicate the need for a more integrated legal policy framework within Indonesia's criminal justice system, aligned with international narcotics control standards.

Several studies support the notion that there are significant gaps in the implementation of Indonesia's

¹ BNN RI, *Prevalence Survey 2018* (Jakarta Timur: Pusat Penelitian Data dan Informasi, Badan Narkotika Nasional Republik Indonesia, 2018).

² Donny Febryan et al., "Impact of Cooperation BNN RI with UNODC in Drug Eradication Narcotics 2017– 2023," *International Journal of Multicultural and Multireligious Understanding* 11, no. 8 (2024): 348-357, <https://doi.org/10.18415/ijmmu.v11i8.5979>

³ Mondastri Korib Sudaryo and Erma Antasari, "Estimasi Dampak Penyalahgunaan Narkotika Pada Produktivitas Kerja: Studi Cross Sectional Pada Pekerja Di Indonesia," *Jurnal Epidemiologi Kesehatan Komunitas* 10, no. 1 (February 27, 2025): 97–104, <https://doi.org/10.14710/jekk.v10i1.11756>.

⁴ Christel Macdonald et al., "Interventions to Reduce Harms Related to Drug Use among People Who Experience Incarceration: Systematic Review and Meta-Analysis," *The Lancet Public Health* 9, no. 9 (September 2024): e684–e699, [https://doi.org/10.1016/S2468-2667\(24\)00160-9](https://doi.org/10.1016/S2468-2667(24)00160-9).

⁵ Ni Putu Meliana Wardiani et al., "The Effectiveness of Rehabilitation for Drug Addicts and Victims of Drug Abuse in Tackling Drug Abuse in Buleleng," *International Journal of Law, Tourism, and Culture* 1, no. 1 (2023): 1–12, <https://semnas-fmipa.undiksha.ac.id/index.php/IJLTC/article/view/4421>.

narcotics laws. For example, Ariani et al.⁶ highlight discrepancies in the application of narcotics legislation, such as inconsistent categorization of narcotics use and trafficking, and a lack of clarity around decriminalization and criminalization, which hampers effective enforcement. Similarly, Dharmaputra et al.⁷ argue that Indonesia's narcotics rehabilitation laws are fragmented and misaligned with international standards, leading to inefficiencies in addressing drug abuse and rehabilitation. Furthermore, Yanti et al.⁸ criticize the punitive approach of Law No. 35/2009, noting its contribution to overcrowded prisons, which undermines the potential for rehabilitation and points to the failure of a strictly penal system to reduce drug-related recidivism.

Organized crime is perpetrated by groups or entities that derive benefit from illegal activities. The UNODC in its 2010 report describes organized crime as a network of individuals or groups, usually structured hierarchically, capable of dominating black markets, including the illegal drug trade.⁹ Organized crime is systematic, regulates illegal markets, and employs violence or intimidation to oversee illicit operations.¹⁰ The present legal system exhibits significant deficiencies in addressing the illicit drug trade, especially through both criminal and non-penal methods. Enforcement challenges emerge at several stages of the criminal justice process. During the investigative stage, limitations in intelligence capacity and inter-agency coordination may hinder the effective dismantling of organized drug networks. At the prosecutorial and sentencing stages, inconsistencies in the classification of offenders and the exercise of judicial discretion can lead to uneven application of Law No. 35 of 2009 concerning Narcotics. Furthermore, protracted judicial proceedings and limited institutional resources contribute to delays in case resolution, which in some instances allow organized crime actors to evade timely accountability, as reflected in empirical assessments of narcotics law enforcement in Indonesia.¹¹

Non-penal narcotics control, particularly rehabilitation programs, encounters significant challenges inside the penal system. Indonesia's inadequately supported rehabilitation programs are unable to manage the substantial number of drug users. The restricted availability of recovery programs complicates efforts to diminish drug recidivism. Although preventative education and social strategies are crucial in combating drug addiction, they possess inherent limits. Despite being well-intentioned, Indonesia's national drug prevention measures have frequently been uneven and inadequate in addressing the needs of diverse communities.

Several recent studies support this argument. Dewi et al.¹² highlight the weak coordination between law enforcement and rehabilitation programs, reducing the effectiveness of non-penal measures. Iswara and Nugroho¹³ emphasize the lack of integrated policies between the police, BNN, and correctional institutions. Meanwhile,

⁶ Nevey Varida Ariani, Yusramizza Md. Isa, and Yuhanif Yusof, "The Implementation of Narcotics Law in Indonesia: An Analysis of Issues and Challenges," in *International Conference On Law And Social Sciences*, 2024, 1–23, <https://journal.uir.ac.id/index.php/icolss/article/view/18733>.

⁷ Ngurah Suradatta Dharmaputra, Abdul Latif, and Md. Shodiq, "Reconstruction of Narcotics Rehabilitation Law in Indonesia: A Framework For Harmonization With Global Human Rights And Health Standards," *Advances In Social Humanities Research* 3, no. 10 (October 1, 2025): 89–781, <https://doi.org/10.46799/adv.v3i10.478>.

⁸ Rika Afrida Yanti, Liza Agnesta Krisna, and Vivi Hayati, "Kritik Atas Penerapan UU Narkotika Dan Kaitannya Dengan Overcrowded Di Lapas Indonesia: Evaluasi Normatif-Empiris Terhadap Penegakan UU Narkotika Di Indonesia," *Locus Journal of Academic Literature Review* 4, no. 7 SE-Artikel (October 31, 2025): 535–545, <https://doi.org/10.56128/ljoalr.v4i7.590>.

⁹ UNODC, *The Globalization Of Crime: A Transnational Organized Crime Threat Assessment* (United Nations Office on Drugs and Crime, 2010).

¹⁰ Jay S. Albanese, "Organized Crime as Financial Crime: The Nature of Organized Crime as Reflected in Prosecutions and Research," *Victims & Offenders* 16, no. 3 (April 3, 2021): 43–431, <https://doi.org/10.1080/15564886.2020.1823543>.

¹¹ Arya Nurridad Aziz Majid, Sahban Sahban, and Hasnan Hasbi, "Efektivitas Penegakan Hukum Oleh Kepolisian Terhadap Pelaku Tindak Pidana Narkotika," *LEGAL DIALOGICA* 1, no. 1 SE-Articles (2025): 1–15, <https://jurnal.fh.umi.ac.id/index.php/legal/article/view/1473>.

¹² Indah Purnama Dewi, Asri Agustiwi, and Bintara Sura Priambada, "The Implementation of Rehabilitation for Drug Using Police Members (Case Study in the Blora Police Legal Area)," *Legal Brief* 11, no. 4 (2022): 2551–2557, <https://doi.org/10.35335/legal.v11i4.506>.

¹³ Diaz Ratna Iswara and Taufiq Nugroho, "The Effect of Restorative Justice for Drug Users on The Overcapacity of Correctional Facility in Solo City," *Ajudikasi : Jurnal Ilmu Hukum* 8, no. 1 (June 25, 2024): 13–26, <https://doi.org/10.30656/ajudikasi.v8i1.8399>.

research by Setiadi et al.¹⁴ shows that community-based preventive education often fails to reach vulnerable groups. International studies, such as those conducted by Lee et al.¹⁵ in South Korea, demonstrate the importance of harmonizing penal and non-penal approaches, while Forero-Cuellar¹⁶ emphasizes that the overreliance on penal strategies in Latin American countries exacerbates prison overcrowding. These findings indicate that narcotics control in Indonesia still suffers from fragmentation and requires a more integrated approach.

This study conducts a comparative analysis between Law No. 35 of 2009 on Narcotics and the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, particularly in regulating drug trafficking as an organized crime. By examining the alignment between national and international legal standards and evaluating the implementation of Indonesia's narcotics law amid the growing complexity of transnational trafficking networks, this research seeks to address existing legal and enforcement gaps. This study adopts a normative legal research approach, focusing on the analysis of statutory provisions, international conventions, and relevant legal doctrines. In addition, it draws upon secondary empirical reports and statistical data to assess the practical implementation of narcotics regulations and the effectiveness of non-penal measures. This approach aims to provide a comprehensive understanding of existing legal challenges and to propose legislative and policy improvements.

The conceptual framework of this research is based on Legal Dialectical Theory, Criminal Law Theory, and Criminal Policy Theory. Legal dialectic theory perceives law as the outcome of dynamic interactions between legal norms (law in books) and social practices (law in action) inside a society. This perspective perceives law as a dialectical process that develops alongside ideas, social structures, and political aims. Hegel and Marxism's dialectical philosophy perceives social reality as the result of the conflict between thesis and antithesis, culminating in synthesis. The conflict between state-imposed formal law and societal living law engenders a novel perspective on law that is more contextual and attuned to social evolution.¹⁷ The legal dialectic theory facilitates a comprehensive analysis of law throughout society, particularly when normative legislation diverges from actual reality. Repressive positive legal norms frequently clash with the social-psychological circumstances of drug users, who are often casualties of the system, environment, or medical dependency. In this context, legal dialectics suggests that criminal legislation should be implemented within the framework of social structure, communal values, and cultural norms.

Criminal law theory examines the laws governing crime and punishment, establishing the legal framework for societal justice. This theory encompasses the retributive, rehabilitative, and preventive theories of punishment.¹⁸ Contemporary criminal law concepts increasingly adopt a more compassionate and rehabilitative perspective, wherein punishment functions both as a penalty and a means for reform. Criminal law depends on culpability to ascertain penalties. The notion of criminal culpability examines whether the offender comprehended the wrongdoing of their actions and whether those actions were executed with malice. Criminal law must evaluate culpability to differentiate between drug dealers, who intentionally violate the law, and drug users, who may suffer from addiction or other social challenges.

Criminal policy encompasses crime prevention, control, punishment, and policies related to the criminal justice system. Theory of criminal policy aids in the formulation of law enforcement strategies that enhance public safety and social equity.¹⁹ Retribution and deterrence constitute the primary strategies in criminal policy. Following societal transformation, criminal policy evolved to incorporate non-penal strategies aimed at deterring

¹⁴ Adji P Setiadi et al., "Strategies to Implement Community Training to Promote Responsible Self-Medication in Indonesia: A Qualitative Study of Trainers," *International Health* 14, no. 4 (July 1, 2022): 398–404, <https://doi.org/10.1093/inthealth/ihz115>.

¹⁵ Songhee Lee et al., "A Path Analysis Study on the Influence of Social Norms on Substance Use Severity: Focusing on People Who Use Cannabis, Narcotics, and Psychotropic Substances in South Korea," *International Journal of Environmental Research and Public Health* 22, no. 1 (December 27, 2024): 15, <https://doi.org/10.3390/ijerph22010015>.

¹⁶ Alejandro Forero-Cuellar, "Prison Overcrowding and Ill-Treatment: Sentence Reduction as a Reparation Measure. A View from Latin America and Europe," *Torture* 33, no. 3 (2023): 18–38, <https://doi.org/10.7146/torture.v33i3.136824>.

¹⁷ Sophian Yahya Selajar and Aroma Elmina Martha, "Indonesian Criminal Code, Living Law and Control in Law Enforcement in Indonesia," *SASI* 29, no. 4 (October 30, 2023): 705, <https://doi.org/10.47268/sasi.v29i4.1697>.

¹⁸ Monalisa Monalisa, Sri Rahayu, and Dheny Wahyudhi, "A Comparative Study on Criminal Sanction Against Drugs Offenders," *Jambe Law Journal* 2, no. 2 (January 28, 2020): 181–206, <https://doi.org/10.22437/jlj.2.2.181-206>.

¹⁹ Setya Haksama et al., "Criminal Liability by the Pharmaceutical Industry on the Use of Precursors for Illicit Narcotics in Indonesia: A Review," *International Journal of Criminology and Sociology* 9 (April 5, 2022): 1782–1788, <https://doi.org/10.6000/1929-4409.2020.09.204>.

crime by tackling its fundamental causes, including poverty, insufficient education, and social inequity. Primary prevention in criminal policy emphasizes education and societal development, whereas secondary prevention targets individuals who have not yet committed significant offenses.²⁰ Criminal policy theory analyzes the efficacy of legal measures in diminishing crime rates or in excessively criminalizing behavior.

This study aims to compare Law No. 35 of 2009 on Narcotics with the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in addressing drug trafficking as an organized crime, particularly with regard to the alignment of Indonesia's national legal framework with international narcotics control standards. This research also analyzes the implementation of BNN's criminal policies through both penal and non-penal approaches and examines the cooperation and communication patterns between BNN and relevant institutions to understand the dynamics of narcotics control in Indonesia. Ultimately, this research seeks to formulate policy recommendations for more effective strategies in addressing the organized crime networks involved in drug trafficking. The article's discussion includes: 1) comparison of Indonesian regulations and international regulations in handling drug-related crimes, 2) analysis of the implementation of penal and non-penal policies by BNN, and 3) examination of the cooperation and communication patterns between BNN and various related institutions.

2. METHOD

2.1. Type of Research

This research uses normative legal research, a technique for determining legal rules, legal ideas, and legal theories to overcome legal problems and provide new arguments, hypotheses, or concepts that can be used to solve problems. Doctrinal legal research is another name for normative legal studies.²¹

2.2. Research Approach

The approaches used in this study include three main approaches, namely the statute approach, the conceptual approach, and the comparative approach. The statutory approach is used to examine laws and regulations related to the legal problems being studied. The conceptual approach is used to understand related legal concepts, while the comparative approach is used to compare Indonesia's strict narcotics laws, particularly Law No. 35 of 2009, to international legal frameworks.

2.3. Legal Sources

In this study, the legal sources used consist of primary, secondary, and tertiary legal materials.

2.3.1. Primary Legal Material

Primary legal material consists of laws and regulations, court decisions, and other legal instruments that directly provide a legal basis in the analysis of the BNN criminal policy in the penal and non-penal approaches to drug trafficking as an organized crime network in Indonesia. The primary legal materials used in this study include, 1) Indonesian Legislation (Law No. 35 of 2009 on Narcotics). 2) Presidential Regulation of the Republic of Indonesia Number 23 of 2010 concerning the National Narcotics Agency (2010). 3) International Regulation (UN 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances).

2.3.2. Secondary Legal Material

This secondary legal material serves as a reinforcement in analyzing the BNN criminal policy analysis in the penal and non-penal approaches to drug trafficking as an organized crime network in Indonesia. Studies of literature, previous research results, expert opinions, and scientific articles will be used to support legal arguments and enrich theoretical studies in this study. Secondary legal materials used in this study include, Law books, Scientific journals, and Scientific articles in national and international conferences.

²⁰ Abdul Ukas Marzuki, "The Criminal Law System in Indonesia From the Perspective of Pancasila," *Journal of Social Research* 2, no. 9 (August 14, 2023): 3154–3161, <https://doi.org/10.55324/josr.v2i9.1345>.

²¹ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2005).

2.3.3. Tertiary Legal Material

Tertiary legal material serves as an aid in strengthening the analysis and interpretation of primary and secondary legal materials. This material is used to provide conceptual clarity and broaden understanding of the BNN criminal policy analysis in the penal and non-penal approaches to drug trafficking as an organized crime network in Indonesia.

2.4. Data Collection Techniques

The data collection technique used in this study is a literature study or documentation study. Through this technique, researchers collect legal materials that are relevant to the research topic, such as laws and regulations, books, journals, and scientific articles. The data collection process is carried out by reading, understanding, and recording information related to the legal problems being studied.

2.5. Data Analysis

Data analysis in this study was carried out qualitatively with a grammatical and thematic approach. The grammatical approach is used to interpret the meaning of legal texts based on applicable language rules and legal rules. The thematic approach is used to identify and analyze themes that appear in the legal materials being studied. The analysis process is carried out by describing, comparing, and drawing conclusions based on existing legal norms.

3. FINDINGS AND DISCUSSION

3.1. Comparison between Indonesian Legislation and International Regulations in Handling Illicit Drug Trafficking as an Organized Crime Network in Indonesia

A comparison between Indonesian national legislation and international regulations in dealing with drug trafficking as an organized crime highlights significant differences in legal approaches, particularly in relation to the application of the death penalty. Indonesia, through Law No. 35 of 2009 concerning Narcotics, stipulates the death penalty for perpetrators of large-scale drug trafficking, while international regulations, such as the 1988 UN Convention, do not explicitly regulate the death penalty and place more emphasis on the principle of proportionality in imposing sanctions. Table 1 shows the differences that reflect views between countries in responding to drug crimes and human rights.

Table 1. Comparison between Indonesian Legislation and International Regulations

Aspect	Indonesian Legislation (Law No. 35 of 2009 on Narcotics)	International Regulation (UN 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances)	Differences
Scope of Criminalization	Covers all forms of drug trafficking, production, and possession of narcotics. Strong emphasis on organized crime syndicates.	Similarly criminalizes trafficking, manufacturing, and possession of narcotics, but stresses international cooperation.	Both criminalize trafficking, but Indonesia places a stronger emphasis on local penalties and enforcement mechanisms, while international regulations focus more on transnational cooperation.
Penalties for Trafficking	Penalties range from long prison sentences to the death penalty for major trafficking offenses (Article 114).	Penalties include imprisonment and fines, but no specific mention of the death penalty.	Indonesia imposes the death penalty for large-scale narcotics trafficking, while international regulations do not explicitly advocate for the death penalty.
Death Penalty	Death penalty is applicable for those found guilty of trafficking more than 1	No mention of the death penalty, and the Convention promotes a standard of	Indonesia allows the death penalty for significant drug trafficking offenses, while international law advocates for

Aspect	Indonesian Legislation (Law No. 35 of 2009 on Narcotics)	International Regulation (UN 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances)	Differences
	kilogram of narcotics (Article 114).	proportionality in penalties across countries.	proportional penalties without promoting capital punishment.
International Cooperation	Encourages international cooperation but does not specify binding obligations for other states.	The 1988 Convention obligates countries to cooperate in extradition, mutual legal assistance, and information sharing on drug trafficking.	The international regulation places more emphasis on binding international cooperation, while Indonesian law focuses more on national enforcement mechanisms.
Preventive Measures	Focuses on prevention through law enforcement and the establishment of rehabilitation programs.	Encourages prevention through education, rehabilitation, and awareness campaigns, especially through cross-border cooperation.	Indonesia focuses more on direct enforcement and rehabilitation, while international regulations emphasize education and cross-border collaboration.
Implementation of Sentencing	The law mandates strict penalties for those involved in drug trafficking and organized crime networks.	Encourages proportional sentencing and discretion, focusing on the severity of the crime and the role of the perpetrator.	Indonesian law tends to apply very severe penalties, including the death penalty, compared to international law, which advocates for more flexible, proportional sentencing.
Role of Organized Crime Networks	Specifically targets organized crime networks involved in drug trafficking (Article 55).	Focuses on the dismantling of organized crime but emphasizes international criminal law enforcement.	Both address organized crime, but Indonesia's law is more focused on specific national enforcement against drug syndicates, while international law prioritizes global collaboration and comprehensive legal frameworks.

Source: Law No. 35 of 2009 on Narcotics, UN 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, compiled by researchers, April 2025

Below is a detailed comparison table of the Indonesian legislation and international regulations regarding the handling of illicit drug trafficking as an organized crime network. Table 2 highlights the differences, particularly focusing on the issue of the death penalty and other key legal aspects:

Table 2. The Differences in The Issue of the Death Penalty

Aspect	Indonesian Legislation (Law No. 35 of 2009 on Narcotics)	International Regulations (UNODC, 1988 UN Convention)	Differences
General Overview	Law No. 35 of 2009 regulates narcotics and provides measures for prevention, rehabilitation, and criminal penalties, including severe penalties for drug trafficking and organized crime.	The 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances sets international standards for the control and regulation of narcotic trafficking and organized crime, focusing on the cooperation between countries.	Both frameworks aim to control drug trafficking, but Indonesia has more stringent penalties, including the death penalty, which is not explicitly stated in international regulations.
Death Penalty	Article 114 and Article 128 of Law No. 35 of 2009 stipulate the death penalty for traffickers involved in large-scale drug operations, particularly when	The UN Convention allows for penalties but does not require the death penalty, leaving it to the discretion of each country.	Indonesia specifically mandates the death penalty for major traffickers, which is not a requirement under international law but is still permissible under domestic jurisdiction.

Aspect	Indonesian Legislation (Law No. 35 of 2009 on Narcotics)	International Regulations (UNODC, 1988 UN Convention)	Differences
	trafficking 1 kg or more of narcotics.		
Organized Crime	The law treats drug trafficking as part of organized crime, giving special consideration for transnational drug networks under Article 131, which provides for stronger sentences and measures.	The UN Convention explicitly recognizes the connection between organized crime and drug trafficking, and promotes international cooperation to combat these networks through extradition and mutual legal assistance.	Indonesia's domestic laws focus heavily on severe penalties, including imprisonment and capital punishment for organized crime, while the UN Convention primarily emphasizes international cooperation and legal frameworks.
Penalties for Drug Trafficking	In Indonesia, penalties for drug trafficking can include life imprisonment, the death penalty, and extensive fines (up to IDR 10 billion).	Internationally, penalties can include imprisonment, asset forfeiture, and other measures but do not mandate specific penalties like the death penalty.	The main difference is Indonesia's mandatory death penalty, which is more severe than international norms. International law focuses more on rehabilitation and cooperation than on capital punishment.
International Cooperation	Law No. 35 of 2009 requires coordination with international bodies for extradition and mutual assistance in narcotics control, but it does not specify detailed procedures or frameworks.	The UN Convention emphasizes the need for international cooperation, including the implementation of mutual legal assistance, extradition, and information exchange between countries.	While Indonesia encourages international cooperation, the UN Convention has a more structured and binding framework for cooperation between countries in fighting narcotics trafficking.
Prevention and Education	Indonesia's law includes a focus on prevention, but it relies heavily on criminal penalties as a deterrent. Prevention programs are part of national policy, though not always adequately funded.	The UN Convention emphasizes the need for preventive measures, including education, public awareness, and community involvement, to combat drug use at the source.	International regulations stress more balanced approaches, including prevention and public health campaigns, while Indonesian law tends to emphasize penal measures more heavily.

Source: Law No. 35 of 2009 on Narcotics, UN 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, compiled by researchers, April 2025

The analysis reveals significant disparities between Law No. 35 of 2009 on Narcotics and the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, particularly in the severity of penalties and the overall enforcement orientation. While Indonesian legislation mandates capital punishment and life imprisonment for certain large-scale trafficking offenses, the 1988 UN Convention does not prescribe specific penalties such as the death penalty and instead emphasizes international cooperation, asset forfeiture, and coordinated legal frameworks. Furthermore, the imposition of the death penalty for drug offenses invites scrutiny under Article 6(2) of the ICCPR, which restricts capital punishment to the “most serious crimes,” thereby introducing a human rights dimension to the comparative analysis. Both systems address drug trafficking and organized crime; however, Indonesian law is more severe, imposing the death sentence on major drug traffickers, a measure not mandated by international law. This reflects a national preference for punitive action over rehabilitative measures. Indonesia's domestic legislation emphasizes enforcement, whereas the UN Convention advocates for international cooperation. The UN Convention prioritizes preventive strategies and international cooperation, whereas Indonesian legislation focuses on stringent criminal penalties.²² This is in line

²² Beny Abukhaer Tatara and Fauzia Gustarina Cempaka Timur, “Role of Law in Facing Asymmetric Warfare Through Illicit Drug Trafficking in Indonesia,” *International Journal Of Humanities Education and Social Sciences (IJHESS)* 2, no. 4 (February 3, 2023): 1100–1108, <https://doi.org/10.55227/ijhess.v2i4.340>.

with the findings revealed by Ariani et al.²³ who identify normative ambiguity and incompatibility in the application of narcotics legislation in Indonesia. Their study highlights divergent categorizations between narcotics use and trafficking, the ongoing development of new narcotics varieties, and uncertainty surrounding the concepts of criminalization and decriminalization. These inconsistencies contribute to varied interpretations among law enforcement authorities and judicial actors, thereby generating legal uncertainty in the enforcement process. Such conditions have significant legal implications, as they weaken the principle of legal certainty and may hinder the consistent and proportional application of criminal responsibility in narcotics cases.

Non-penal narcotics control, particularly rehabilitation programs, encounters significant challenges within Indonesia's penal-oriented system. Many rehabilitation institutions face difficulties in reintegrating individuals into society due to personnel shortages, limited institutional capacity, and outdated procedural frameworks, indicating that rehabilitation remains institutionally underprioritized within the broader narcotics control strategy. Latumahina²⁴ underscores the limited effectiveness of community-based prevention programs, particularly in reaching marginalized groups, reflecting structural weaknesses in outreach and inclusivity. Mediansyah²⁵ identifies weak coordination between rehabilitation services and law enforcement agencies, suggesting fragmentation within Indonesia's criminal justice and social policy framework. Moreover, Janinah²⁶ further observes that the dominance of punitive approaches over social reintegration reinforces a deterrence-based model that may undermine long-term recovery outcomes. Dharmaputra et al.²⁷ similarly argue that Indonesia's fragmented rehabilitation framework falls short of international standards that promote a health-based and human rights-oriented approach, highlighting a structural misalignment between domestic penal priorities and globally evolving regulatory models. Taken together, these conditions indicate that the challenges faced by Indonesia are not merely administrative deficiencies but reflect a deeper policy orientation that privileges retributive enforcement over integrated social recovery mechanisms. This imbalance ultimately complicates Indonesia's efforts to align its narcotics control framework with international standards that increasingly emphasize proportionality, prevention, and public health integration.

Although preventative education and social strategies are crucial in combating drug addiction, they possess inherent limits. Despite being well-intentioned, Indonesia's national drug prevention measures have frequently been uneven and inadequate in addressing the needs of diverse communities. Numerous drug misuse prevention initiatives emphasize awareness over sustainable behavioral modification, neglecting to confront poverty, educational deficiencies, and social inequities. The absence of cohesive support networks across education, social services, and law enforcement hinders a holistic strategy for diminishing narcotics demand. As emphasized by Handayani,²⁸ inter-agency collaboration is essential for maximizing the impact of prevention and rehabilitation efforts. Non-penal approaches require increased financial support and a more focused, community-oriented plan to address Indonesia's narcotics issue.

The theory of legal dialectics provides more than a descriptive account of the tension between state sovereignty and individual rights; it functions as an analytical framework for assessing the normative conflict within Indonesia's narcotics policy. Indonesia's enforcement model prioritizes sovereign authority through severe criminal sanctions, including capital punishment, as a primary mechanism of deterrence. In contrast, international

²³ Nevey Varida Ariani, Yusramizza Md. Isa, and Yuhanif Yusof, "The Implementation of Narcotics Law in Indonesia: An Analysis of Issues and Challenges," in *International Conference On Law And Social Sciences*, 2024, 1–23, <https://journal.uir.ac.id/index.php/icolss/article/view/18733>.

²⁴ Fransina S Latumahina et al., "Community-Based Narcotics Prevention: An Effective Approach Towards Youth Drug Abuse Mitigation," *Indonesian Journal of Cultural and Community Development* 14, no. 2 (June 15, 2023): 6–9, <https://doi.org/10.21070/ijccd.v14i2.898>.

²⁵ Bayu Mediansyah, "Restorative Assessment Based on Result of Integrated Assessment Prosecution of Restorative Justice Abuse," *Cepalo* 6, no. 1 (October 7, 2022): 47–56, <https://doi.org/10.25041/cepalo.v6no1.2648>.

²⁶ Zainab Ompu Jainah, "Policy on Criminal Law Enforcement Against Illegal Drugs Syndicate Performers What Members of the Police of the Republic of Indonesia Done," *International Journal of Science and Society* 4, no. 3 (August 26, 2022): 265–273, <https://doi.org/10.54783/ijssoc.v4i3.518>.

²⁷ Ngurah Suradatta Dharmaputra, Abdul Latif, and Md. Shodiq, "Reconstruction of Narcotics Rehabilitation Law in Indonesia: A Framework For Harmonization With Global Human Rights And Health Standards," *Advances In Social Humanities Research* 3, no. 10 (October 1, 2025): 89–781, <https://doi.org/10.46799/adv.v3i10.478>.

²⁸ Era Handayani, Hieronymus Soerjatisnanta, and Heni Siswanto, "Reforming the Treatment of Drug Users through the Integration of Rehabilitation and Restorative Justice," *GPH-International Journal of Social Science and Humanities Research* 08, no. 05 (2025): 63–67, <https://doi.org/10.5281/zenodo.15539156>.

legal standards emphasize proportionality, due process, rehabilitation, and international cooperation, thereby challenging the sustainability of a predominantly punitive approach.²⁹

This normative tension reveals a structural imbalance in Indonesia's narcotics framework, where penal enforcement remains dominant while rehabilitative and human rights considerations operate in a secondary capacity. Rather than merely advocating harmonization, a dialectical resolution requires institutional restructuring. This may include reformulating sentencing provisions to incorporate clearer proportionality standards, establishing mandatory diversion mechanisms that channel drug users into structured rehabilitation programs, clarifying prosecutorial guidelines to distinguish users from organized traffickers, and formally integrating public health authorities into narcotics governance. Without such structural adjustments, Indonesia risks maintaining a dualistic model in which punitive severity coexists with underdeveloped rehabilitative mechanisms, thereby perpetuating inconsistency in enforcement and weakening long-term policy effectiveness.

3.2. Normative Analysis of BNN's Penal and Non-Penal Policy Framework in Narcotics Control

In addressing the persistent problem of drug trafficking in Indonesia, the BNN operates within a dual regulatory framework consisting of penal and non-penal strategies. From a normative perspective, these two approaches reflect different legal orientations in responding to narcotics offenses. The penal approach emphasizes enforcement through criminal sanctions as provided under Law No. 35 of 2009, while the non-penal approach prioritizes preventive, rehabilitative, and social intervention mechanisms within the broader narcotics governance structure.

This section does not evaluate empirical field outcomes, but rather examines the regulatory design, institutional mandates, and policy orientation underlying BNN's criminal policy. Table 3 presents an analytical synthesis of these two approaches, highlighting their normative foundations, institutional configurations, structural challenges, and intended regulatory objectives.

Table 3. Normative Comparison of Penal and Non-Penal Approaches in BNN's Policy Framework

Approach	Description	Implementation by BNN	Challenges	Effectiveness
Penal Approach	Emphasizes strict enforcement and criminal sanctions under Law No. 35 of 2009, including imprisonment, fines, and severe penalties for narcotics offenses.	Reflected in coordinated law enforcement operations and prosecutorial measures within the criminal justice system.	Risk of over-reliance on custodial sanctions, institutional strain, and limited integration with rehabilitation mechanisms.	Framed as a deterrent mechanism intended to suppress narcotics trafficking and maintain public order.
Non-Penal Approach	Emphasizes prevention, rehabilitation, and demand reduction through medical and social intervention mechanisms.	Reflected in rehabilitation programs, public awareness initiatives, and institutional coordination with health and social agencies.	Resource limitations, institutional fragmentation, and varying levels of community participation.	Designed to address structural and socio-medical factors contributing to drug dependency.

Source: Author's analytical synthesis based on Law No. 35 of 2009 and publicly documented institutional mandates, April 2025

Table 3 illustrates the normative divergence between enforcement-oriented and rehabilitation-oriented mechanisms within Indonesia's narcotics framework. The penal approach is legally justified as a deterrent instrument within national criminal policy, yet secondary literature has associated heavy reliance on custodial sanctions with institutional strain and limited rehabilitative integration. Conversely, the non-penal approach is structurally oriented toward demand reduction and social reintegration, although its implementation is frequently

²⁹ Arief Fahmi Lubis, "The Right to a Fair Trial: Comparative Analysis of International Human Rights Standards," *The Easta Journal Law and Human Rights* 1, no. 03 (June 30, 2023): 116–126, <https://doi.org/10.58812/eslhr.v1i03.88>.

described in academic discourse as constrained by institutional and resource limitations. In line with the findings of Yanti et al.,³⁰ the predominance of custodial responses for drug-related offenses illustrates a penal-centric policy orientation that prioritizes repression over long-term social reintegration. This configuration concentrates regulatory authority within the criminal justice system while non-penal mechanisms remain comparatively underdeveloped. Such reliance contributes to high incarceration rates, which do not necessarily reduce recidivism or address the structural drivers of addiction.

Comparative developments in other jurisdictions demonstrate that alternative regulatory configurations may recalibrate enforcement priorities. In Thailand, the 2019 legalization of medicinal cannabis was accompanied by a supervised prescription and monitoring system that recorded more than ten thousand regulated consultations within its first phase of implementation,³¹ illustrating how structured public health oversight can replace unregulated or purely punitive responses. Similarly, Portugal's decriminalization framework redirected drug users from criminal courts to administrative health commissions and was associated with declining incarceration rates for drug-related offenses while maintaining state supervision through non-penal mechanisms.³² Rather than eliminating enforcement, these models integrate prevention and treatment into drug governance, addressing the underlying causes of dependency more directly than imprisonment alone.³³ This contrast invites critical reflection on Indonesia's continued prioritization of deterrence over balanced regulatory integration.

Several prior studies offer valuable insights into the effectiveness of penal versus non-penal approaches in narcotics control. Shobirin³⁴ argues that Indonesia's over-reliance on penal measures has led to an increase in incarceration rates without effectively reducing drug trafficking or addiction. Efendi and Wijayanto³⁵ further emphasizes that while the penal approach provides a short-term deterrent, it fails to address the socio-economic factors contributing to drug use. Jaya and Hikmah³⁶ assert that Indonesia's legal framework needs to integrate preventive and rehabilitative strategies to combat the increasing rate of drug abuse effectively. Glad et al.³⁷ also provides an international comparison, noting that countries adopting a mixed approach of enforcement and rehabilitation, like in Scandinavian models, have seen more success in reducing both drug trafficking and recidivism.

From a criminal law theory perspective, Indonesia's punitive approach is rooted in the belief that harsh penalties are necessary to maintain social order and deter crime. However, such extreme measures, especially the death penalty, have been criticized by international human rights organizations for being disproportionate and not aligned with the rehabilitation-focused approach that many countries and international conventions advocate. The UNTOC, for instance, highlights that criminal justice should not only punish but also rehabilitate offenders, treating drug abuse as a public health issue. This contrast emphasizes the need for Indonesia to reconsider its

³⁰ Rika Afrida Yanti, Liza Agnesta Krisna, and Vivi Hayati, "Kritik Atas Penerapan UU Narkotika Dan Kaitannya Dengan Overcrowded Di Lapas Indonesia: Evaluasi Normatif-Empiris Terhadap Penegakan UU Narkotika Di Indonesia," *Locus Journal of Academic Literature Review* 4, no. 7 SE-Artikel (October 31, 2025): 535–545, <https://doi.org/10.56128/ljoalr.v4i7.590>.

³¹ Nantthasorn Zinboonyahgoon et al., "Medicinal Cannabis in Thailand: 1-Year Experience after Legalization," *Pain* 162, no. 1 (July 2021): S105–S109, <https://doi.org/10.1097/j.pain.0000000000001936>.

³² Ximene RÊGO et al., "20 Years of Portuguese Drug Policy - Developments, Challenges and the Quest for Human Rights," *Substance Abuse Treatment, Prevention, and Policy* 16, no. 1 (December 17, 2021): 59, <https://doi.org/10.1186/s13011-021-00394-7>.

³³ Alberto Aziani, Giulia Berlusconi, and Luca Giommoni, "A Quantitative Application of Enterprise and Social Embeddedness Theories to the Transnational Trafficking of Cocaine in Europe," *Deviant Behavior* 42, no. 2 (February 1, 2021): 245–267, <https://doi.org/10.1080/01639625.2019.1666606>.

³⁴ Muhammad Shobirin et al., "Concept of Protection for Victims of Narcotics Abuse in Indonesia Fairly Based on Pancasila," *Journal of Law and Sustainable Development* 12, no. 1 (January 15, 2024): e2445, <https://doi.org/10.55908/sdgs.v12i1.2445>.

³⁵ Putri Rahma Efendi and Indung Wijayanto, "Criminal Law Formulation Policy for Self-Abuse of Narcotics as an Effort to Prevent Prison Overcrowding," *TATOHI: Jurnal Ilmu Hukum* 5, no. 5 (July 31, 2025): 239, <https://doi.org/10.47268/tatohi.v5i5.3094>.

³⁶ Candra Jaya and Faidatul Hikmah, "Legal Reform on Rehabilitation for Drug Users as an Ultimum Remedium Effort," *JURNAL USM LAW REVIEW* 7, no. 1 (April 20, 2024): 375–364, <https://doi.org/10.26623/julr.v7i1.8803>.

³⁷ Johan Glad et al., "Rehabilitative Measures as a Legal Response for Adolescents Convicted for Drug Offences: The Swedish System," *Nordic Studies on Alcohol and Drugs* 42, no. 1 (February 3, 2025): 57–79, <https://doi.org/10.1177/14550725241295469>.

alignment with international norms and integrate more rehabilitative practices into its drug policies³⁸. Criminal policy theory further illuminates the practical effectiveness of Indonesia's current approach, which focuses heavily on enforcement and severe penalties. While such policies might work in deterring some criminal activity, they may not be sufficient to dismantle complex transnational drug trafficking networks. International regulations, on the other hand, encourage collaboration between states and emphasize integrated strategies, including prevention, rehabilitation, and capacity-building among law enforcement agencies.³⁹ For Indonesia, adopting a policy that blends deterrence with rehabilitation and international cooperation could prove more effective in addressing the root causes of drug trafficking and curbing its global reach.

3.3. Communication Patterns between BNN and Other Institutions in Narcotics Control

Effective narcotics control in Indonesia requires coordination between the BNN and various state and non-state institutions. Within the framework of Law No. 35 of 2009 concerning Narcotics, institutional mandates are distributed across enforcement, prevention, rehabilitation, and social reintegration functions. This section examines how these mandates interact in practice through both penal mechanisms, such as enforcement and prosecution, and non-penal mechanisms, including prevention, education, and rehabilitation.

Table 4 provides a structured synthesis of institutional communication and collaboration patterns between BNN and relevant stakeholders. The table is developed based on a normative reading of statutory mandates and publicly documented institutional practices, as reflected in official descriptions, policy reports, and secondary academic literature. It does not derive from primary empirical fieldwork, but rather presents an analytical mapping intended to clarify coordination dynamics within Indonesia’s narcotics governance framework.

Table 4. Communication and Collaboration Patterns Between BNN and Other Institutions

Institution Type	Communication Pattern	Example/Description of Communication and Collaboration
Police (POLRI)	Operational Coordination and Information Exchange	BNN and POLRI coordinate in law enforcement operations targeting narcotics trafficking networks. Coordination includes intelligence sharing, joint investigations, and collaborative enforcement strategies as mandated under national narcotics legislation.
Ministry of Health	Collaboration in Prevention and Rehabilitation	BNN collaborates with the Ministry of Health in implementing rehabilitation programs and public health interventions for drug users. This includes coordination in medical treatment services, rehabilitation standards, and preventive health campaigns.
Non-Governmental Organizations (NGOs)	Dialogue and Public Outreach	BNN engages with NGOs in awareness campaigns, prevention programs, and community-based initiatives aimed at reducing drug demand and supporting rehabilitation efforts.
Ministry of Social Affairs	Community Empowerment and Social Rehabilitation	BNN cooperates with the Ministry of Social Affairs in facilitating social reintegration programs, including vocational support, community empowerment initiatives, and psychosocial assistance for recovering individuals.
International Cooperation	Training and International Collaboration	BNN participates in international cooperation mechanisms, including collaboration with international organizations such as UNODC, for knowledge exchange, technical training, and coordination in combating transnational narcotics trafficking.

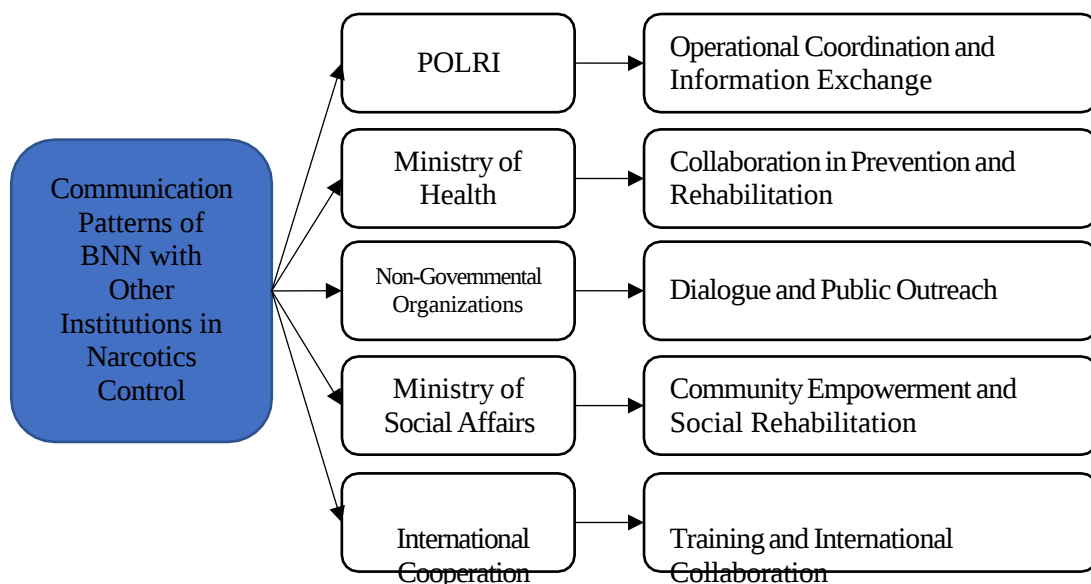
Source: Analytical synthesis by the author based on Law No. 35 of 2009 concerning Narcotics and publicly documented institutional coordination practices, April 2025

³⁸ Rebeca Fernandes Ferreira Lima et al., “Capturing the Heterogeneity of Life on the Streets: A Person-centered Analysis of Street Histories and Social Connections of Youth,” *Journal of Adolescence* 93, no. 1 (December 2021): 80–89, <https://doi.org/10.1016/j.adolescence.2021.10.004>.
³⁹ Syed Hammad Khan et al., “The Role of International Law in Addressing Transnational Organized Crime,” *Journal of Asian Development Studies* 13, no. 1 (February 28, 2024): 294–283, <https://doi.org/10.62345/jads.2024.13.1.24>.

Table 4 illustrates how communication patterns between BNN and other institutions operate within Indonesia's narcotics governance framework through both penal and non-penal mechanisms. Coordination with the Indonesian National Police (POLRI) reflects operational collaboration aimed at disrupting organized drug networks through intelligence exchange and joint enforcement actions. Such coordination is intended to enhance investigative effectiveness and minimize institutional fragmentation in addressing large-scale narcotics cases.

In parallel, collaboration with the Ministry of Health represents the non-penal dimension of narcotics control, particularly in prevention and rehabilitation. Through coordinated treatment protocols and institutional cooperation, BNN and the Ministry of Health implement medical and social rehabilitation measures as mandated under Article 54 of Law No. 35 of 2009 concerning Narcotics, which obliges narcotics addicts and victims of abuse to undergo medical and social rehabilitation. Furthermore, Article 103 authorizes judges to order rehabilitation measures within the criminal justice process, thereby integrating therapeutic intervention into judicial proceedings. These provisions demonstrate that citizens' rights to treatment and recovery are normatively embedded within Indonesia's narcotics legislation. However, as discussed in previous sections, the practical realization of these rights remains dependent on institutional capacity, inter-agency coordination, and the broader policy orientation that continues to prioritize penal enforcement. Figure 1 summarizes the institutional communication patterns that underpin Indonesia's penal and non-penal narcotics control strategies.

Figure 1. Communication Patterns between BNN and Other Institutions



Source: Analytical synthesis by the author based on Law No. 35 of 2009 concerning Narcotics and publicly documented institutional coordination practices, April 2025

BNN's partnership with NGOs and the Ministry of Social Affairs contributes to a more integrated narcotics governance framework. In practice, NGOs collaborate with BNN in conducting community-based prevention campaigns, awareness workshops in high-risk areas, and early identification programs for vulnerable groups. These initiatives complement law enforcement by addressing drug demand at the community level and preventing minor users from progressing into more serious criminal networks. Meanwhile, the Ministry of Social Affairs plays a central role in post-rehabilitation reintegration through vocational training, social empowerment programs, and psychosocial support mechanisms. This inter-agency coordination enables structured referral pathways from enforcement agencies to rehabilitation and reintegration programs, thereby reducing reliance on custodial sanctions for drug users. From a law enforcement perspective, such cooperation enhances policy effectiveness by combining deterrence with supervised social recovery, potentially lowering recidivism rates and easing institutional pressure on correctional facilities.

BNN's collaboration with the UNODC reflects the transnational character of narcotics trafficking and the operational necessity of international cooperation. In practice, this cooperation includes participation in regional intelligence-sharing mechanisms, technical training programs for investigators, and alignment with international

standards on mutual legal assistance and asset tracing. Through these mechanisms, BNN enhances its investigative capacity in addressing cross-border trafficking networks and improves coordination in cases involving transnational organized crime. This collaboration has direct implications for narcotics law enforcement, as it strengthens evidence-gathering procedures, facilitates cross-border information exchange, and supports Indonesia's compliance with international drug control obligations.

Several prior studies provide important insights into the effectiveness of inter-agency collaboration in narcotics control. Widani et al.⁴⁰ highlights that effective collaboration between BNN, the police, and the Ministry of Health is essential to address both the enforcement and rehabilitation aspects of drug control. He emphasizes that the lack of integration between law enforcement and rehabilitation programs has led to inefficiencies in combating drug-related crimes. Sidabutar et al.⁴¹ further suggests that while the coordination between BNN and the police has been somewhat successful in dismantling drug networks, there is a critical need for a more structured collaboration with NGOs and social services to address the underlying causes of drug abuse through education and prevention. In line with this, Setiadi et al.⁴² underscore the importance of a community-based approach, which promotes responsible self-medication and empowers communities with the knowledge and tools to prevent drug abuse. This highlights the value of incorporating multi-sectoral collaboration, involving both national bodies and trusted community members, to create a more holistic and sustainable solution to narcotics control in Indonesia.

The Legal Dialectic Theory, which posits that law is a dynamic system influenced by social interactions and conflicts, aligns with Indonesia's collaborative drug control initiatives. Legal procedures are dialectical, as demonstrated by BNN, law enforcement agencies, social services, and international organizations. As institutions collaborate, their objectives (prevention, enforcement, rehabilitation, and international cooperation) generate a dynamic conflict that influences policies and practices. Criminal Law Theory posits that the criminal justice system reconciles deterrence, retribution, and rehabilitation. BNN's collaboration with law enforcement and social services illustrates the application of criminal law beyond punitive actions to encompass rehabilitative and preventive strategies, according with Criminal Law Theory.⁴³

Criminal Policy Theory emphasizes the formulation and implementation of legislative measures to prevent crime and administer sanctions equitably. Criminal policy must encompass both penal (punitive) and non-penal (preventive and rehabilitative) strategies for narcotics control to effectively tackle the intricate issues of drug misuse and trafficking.⁴⁴ In accordance with Criminal Policy Theory, BNN partners with the Ministry of Health, Ministry of Social Affairs, and NGOs to amalgamate law enforcement, social support, education, and rehabilitation. Indonesia's equitable criminal policy mitigates the prevalence of narcotics and associated social detriment by penalizing traffickers and curbing drug consumption.⁴⁵

Several countries, including Indonesia, have implemented policies to identify and disrupt drug entry routes from international networks into Indonesia. However, these interventions are often limited in scope. To be more effective, these interventions need to be integrated with international drug control. The Indonesian government can develop, review, and strengthen, where appropriate, comprehensive and integrated drug input reduction policies and programs that provide a continuum of prevention and care across health and social services, from primary prevention to early intervention, treatment, rehabilitation, and social reintegration, as well as related

⁴⁰ Komang Ari Widani et al., "The Data-Driven Approach in Transitioning Organizational Strategies and Capabilities: Insights from Indonesia's National Narcotics Agency," *Jurnal Nasional Pendidikan Teknik Informatika (JANAPATI)* 13, no. 3 (December 1, 2024): 531–520, <https://doi.org/10.23887/janapati.v13i3.84864>.

⁴¹ Ronny Nicolas Sidabutar et al., "Criminal Policy in Law Enforcement of Criminal Acts of Drug Circulation in the Digital Era," *KnE Social Sciences* 2024 (2024): 570–600, <https://doi.org/10.18502/kss.v8i21.14775>.

⁴² Adji P Setiadi et al., "Strategies to Implement Community Training to Promote Responsible Self-Medication in Indonesia: A Qualitative Study of Trainers," *International Health* 14, no. 4 (July 1, 2022): 398–404, <https://doi.org/10.1093/inthealth/ihz115>.

⁴³ Aswari Hepni, "Effectiveness of Law Enforcement on Narcotics Crimes through Synchronization of Authority Between the National Narcotics Agency (BNN) and the Indonesian National Police," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 10, no. 1 (December 27, 2024): 12–23, <https://doi.org/10.30863/ajmpi.v10i1.7780>.

⁴⁴ Zainab Ompu Jainah, "Policy on Criminal Law Enforcement Against Illegular Drugs Syndicate Performers What Members of the Police of the Republic of Indonesia Done," *International Journal of Science and Society* 4, no. 3 (August 26, 2022): 265–273, <https://doi.org/10.54783/ijssoc.v4i3.518>.

⁴⁵ Muhammad Adystia Sunggara, "Kebijakan Penegakan Hukum Dalam Pemberantasan Narkotika Penyalagunaan Dalam Tahanan Oleh Badan Narkotika Nasional," *Solusi* 18, no. 2 (May 1, 2020): 139–146, <https://doi.org/10.36546/solusi.v18i2.279>.

support services, aimed at improving the health and social well-being of individuals, families, and communities. The government is committed to reducing the negative impacts of drug abuse on individuals and society as a whole. This can be achieved by promoting comprehensive policies and programs using a multi-agency approach, including health care, social services, criminal justice, employment, and education institutions, non-governmental organizations, and civil society. The Indonesian government should fully utilize the activities of non-governmental organizations and civil society.

Currently, there are few alternative punishments other than prosecution and imprisonment for drug abusers. Furthermore, treatment services within the criminal justice system are often inadequate. Furthermore, in Indonesia, issues such as corruption, the ability of law enforcement to buy off, access to drugs, and their detrimental effects, including the frequency of infectious disease transmission within prisons, need to be addressed. Equally important, greater emphasis should be placed on the transition between detention and release, social reintegration, and reintegration. Therefore, governments should work within their legal frameworks, considering allowing the full implementation of drug addiction treatment and care options for offenders, particularly, where appropriate, providing treatment as an alternative to incarceration. Furthermore, steps should be taken to address corruption and prevent access to and use of illegal drugs within prison.

4. CONCLUSION

This study demonstrates that while both Law No. 35 of 2009 concerning Narcotics and the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances aim to combat illicit drug trafficking, they differ in regulatory orientation. Indonesian law adopts a more punitive framework, including the possibility of capital punishment for certain large-scale trafficking offenses, whereas the 1988 UN Convention emphasizes international cooperation, proportional enforcement, and preventive mechanisms. At the same time, national legislation already recognizes rehabilitation as a legal mechanism, particularly under Articles 54, 103, and 127 of the Narcotics Law, which provide for medical and social rehabilitation for drug dependents and victims of abuse. The findings do not suggest that major organized traffickers should be exempt from criminal responsibility. Rather, the concern lies in the rigid differentiation between “victims” and “dealers” within the current legal framework, which may overlook cases where drug dependency intersects with low-level distribution roles. A comprehensive health-based approach can be justified where dependency substantially influences criminal conduct, while maintaining strict penal sanctions against profit-driven organized syndicates in accordance with both domestic law and international obligations. Such recalibration could be implemented through clearer sentencing guidelines, strengthened judicial discretion under Article 103, improved diversion mechanisms, and closer institutional integration between law enforcement and public health authorities. Ultimately, a balanced narcotics policy requires harmonizing deterrence with rehabilitation and inter-agency coordination. By reinforcing proportionality, clarifying rehabilitation pathways, and strengthening cooperation among BNN, POLRI, the Ministry of Health, and international partners, Indonesia can enhance both the effectiveness and the legitimacy of its drug control framework while remaining consistent with its national legal structure and evolving international standards.

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6. CONFLICT OF INTEREST

The authors declare that there is no conflict of interest regarding the publication of this paper.

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