JURNAL BINA PRAJA
Journal of Home Affairs Governance

ARTICLE

Harmonization of Penal and Non-penal Policies in the Governance of Narcotics Control in Indonesia

Gazali Ahmad, **Nashriana**, **Henny Yuningsih**
Sriwijaya University, Palembang, Indonesia

gazaliahmadlemhannas@gmail.com

OPEN ACCESS

Citation: Ahmad, G., Nashriana, & Yuningsih, H. (2025). Harmonization of Penal and Non-penal Policies in the Governance of Narcotics Control in Indonesia. *Jurnal Bina Praja, 17*(3). https://doi.org/10.21787/jbp.17.2025-2836

Submitted: 3 October 2025
Accepted: 5 December 2025
Published: 31 December 2025

Abstract: Background of Study: The circulation of narcotics in Indonesia has evolved into a complex, asymmetrical threat, demanding a policy reorientation from a purely punitive approach (war on drugs) to collaborative governance, especially following the enactment of Law No. 1 of 2023 (the National Criminal Code). **The problem:** A repressive penal approach has proven unsuccessful in reducing prevalence and has instead led to extreme overcapacity in correctional institutions, while regional autonomy has not been optimal in supporting prevention due to sectoral egos. **Gap of Study:** There has been no comprehensive study that integrates the analysis of the new criminal law transition with the collaborative governance model of local government. **Theory:** This study uses Friedman's Legal System Theory (Grand), Barda Nawawi Arief's Criminal Policy (Middle-Range), and Ansell & Gash's Collaborative Governance (Applied). **Aim:** Analyzing the harmonization of penal-non-penal policies and reconstructing a collaborative governance model. **Research Question:** How is the harmonization of legal construction after Law No. 1 of 2023 and how does the collaborative model overcome institutional fragmentation? **Method:** Juridical-normative with a sociological approach based on secondary data. **Results:** The National Criminal Code changes the death penalty into a special penalty with a probationary period, requiring the readiness of a rehabilitation structure. **Discussion:** The failure of penal is due to the disorientation of the legal structure, while non-penal is hampered by weak regional institutional design. Conclusion: Effective drug control requires a balance between criminal policy and facilitative regional leadership. **Recommendation:** Implementation of the Hexa-Helix collaboration model and integration of P4GN indicators into regional development planning documents (RPJMD/IKU) and the issuance of rehabilitative prosecution guidelines.

Keywords: National Narcotics Agency; Narcotics Management; Collaborative Governance; Penal and Non-penal Policies; National Criminal Code.

1. Introduction

Reorienting narcotics policy in the era of legal transition is increasingly urgent. Illicit drug trafficking and abuse in Indonesia have evolved from a conventional criminal problem to an asymmetric threat endangering the very foundations of national life. This phenomenon can no longer be viewed as a mere health or security issue, but rather as a complex governance challenge. The latest data from the Indonesia Drug Report 2024, published by the Research, Data, and Information Center of the National Narcotics Agency (BNN), shows that the prevalence of drug abuse in Indonesia in 2023 reached 1.73%, equivalent to approximately 3.33 million people of productive age (15-64 years). While this figure represents a marginal decrease from 1.95% in 2021, these fluctuations indicate that the Indonesian drug market is dynamic and persistent, with a shift in consumption patterns toward new psychoactive substances (NPS) and the abuse of more affordable but deadly Schedule G drugs.

The situation in Indonesia makes this issue even more complicated because it is now a primary target for the international drug operations, such as those from the Golden Triangle and Golden Crescent, and not just a place they pass through. Their methods are getting more advanced, involving the use of technology for drug trafficking online and utilizing global shipping routes, which are hard to find using normal ways (Ariani et al., 2025). This situation demands an adaptive, integrated, and evidence-based policy response. However, the reality of drug policy in Indonesia over the past few decades has tended to be fixated on a highly punitive “War on Drugs” approach (United States Department of State Bureau for International Narcotics and Law Enforcement Affairs, 2025).

Law No. 35 of 2009 concerning Narcotics, which serves as the basis for current positive law, is considered one of the strictest narcotics laws in the world. This law imposes a maximum penalty of death for perpetrators of Class I narcotics crimes exceeding a certain threshold. However, the effectiveness of this highly repressive approach (the penal approach) in curbing the rate of drug abuse and illicit trafficking remains a matter of heated academic and practical debate. Empirical evidence shows that despite continued arrests and harsh sentences, correctional institutions (Lapas) in Indonesia are experiencing extreme overcrowding, with drug inmates making up more than 50% of the total inmates (Maryani, 2021).

This condition creates a policy irony: efforts to imprison perpetrators to break the network actually create new “schools of crime” in prisons and burden the state budget, while victims of abuse who should be rehabilitated are actually marginalized (Maryani, 2021; Nasir, 2025).

The momentum for fundamental change emerged with the enactment of Law No. 1 of 2023, which amended the Criminal Code (National Criminal Code). This legislation marked a new chapter in Indonesian criminal law by introducing the paradigm of corrective, rehabilitative, and restorative justice. One of the most significant breakthroughs in the National Criminal Code was the reformulation of the death penalty. Whereas previously, in the Narcotics Law, the death penalty was positioned as a principal penalty that could be imposed immediately, the National Criminal Code positions it as a special penalty, threatened as an alternative with a 10-year probationary period (Nasution et al., 2023; Putra & Sutanti, 2020; Susanto et al., 2024).

This change is not merely a legal technicality but rather reflects a profound philosophical shift in how the state views punishment: from purely retributive to efforts to improve and protect society. In the context of domestic governance, the

role of local governments is becoming increasingly crucial. The Minister of Home Affairs Regulation (Permendagri) concerning Facilitation of Prevention and Eradication of Narcotics and Narcotics Precursor Abuse and Illicit Trafficking has mandated local governments to facilitate the Prevention, Eradication, Abuse, and Illicit Trafficking of Narcotics (P4GN). This agenda is reaffirmed in Circular Letter of the Minister of Home Affairs No. 300.4/2613/SJ, dated May 19, 2025, concerning Regional Government Support in the Implementation of the Narcotics Eradication Desk, the Prevention and Eradication of Smuggling Desk, and the Eradication of Online Gambling Desk. However, implementation in the field is often hampered by sectoral egos, budget constraints, and unclear coordination mechanisms between vertical agencies (the National Narcotics Agency) and regional apparatus. Therefore, an in-depth analysis is needed on how to align central and regional policies within a collaborative governance framework to address the multidimensional narcotics challenge.

Based on the literature review of this discourse, there are three main clusters in the study of drug policy in Indonesia. The first cluster is the Effectiveness of Rehabilitation and the Health Approach. Ngaisah et al. (2025) concluded that although Indonesia has rhetorically shifted toward rehabilitation, structural challenges, such as stigma, poor infrastructure, and poor coordination among stakeholders, remain major obstacles. Furthermore, Jaya and Hikmah (2024) highlighted the shift in the legal framework from punitive to public health, but found judicial inconsistencies, with judges preferring imprisonment over medical rehabilitation due to the lack of clear sentencing guidelines. This study confirms that the "substantial" aspect of the law has not been fully internalized in the "culture" of law enforcement.

The second cluster is the Death Penalty and Human Rights. Discourse on the death penalty dominates the international legal literature on Indonesia. Lubis (2023) concluded that the implementation of the death penalty in Indonesia often contradicts international fair trial standards. Research by Aryanda et al., (2025) and analysis by Cullen and Hoyle (2025) highlight the socio-economic impacts of punitive policies, where the death penalty and long-term imprisonment disproportionately target marginalized groups without providing a significant deterrent effect on high-level syndicates. This literature tends to be critical of the status quo policy but has not yet explored in depth the technical mechanisms of the death penalty probation period in the New Criminal Code as a compromise solution.

The third cluster is collaborative governance at the local level. In the realm of public administration, Latif and Febrian (2022) found that the implementation of collaborative governance in the Desa Bersinar program is highly dependent on the facilitative leadership of the district/city National Narcotics Agency (BNN). Meanwhile, Febriansyah et al. (2025) expanded this model with a Hexa-Helix approach in Bandung City, involving media and legal actors, but noted that the sustainability of collaboration is often threatened by the absence of permanent institutional incentives.

Although several studies have addressed rehabilitation, the death penalty, and collaboration separately, significant gaps remain unfilled. No comprehensive study has specifically integrated the analysis of the criminal law transition (post-Law No. 1 of 2023) with the collaborative governance model of local governments within a single, integrated policy analysis framework. Most legal studies are purely normative, ignoring governance aspects, while public administration studies often overlook the implications of fundamental changes in substantive criminal law.

This research utilizes a layered theoretical framework to examine the issue in depth and across multiple dimensions. Lawrence M. Friedman's Legal System Theory serves as the foundation for macro analysis. Friedman (1975) postulates that law does not operate in a vacuum, but rather is a system consisting of three dynamically interacting elements (Flora et al., 2023; Nurhaliza B. et al., 2024; Wibiyanto & Sudarwanto, 2024). These three are: 1) Legal Substance, which refers to the rules, norms, and real patterns of human behavior within the system. In this context, the term "substance" includes Law No. 35 of 2009, Law No. 1 of 2023, and various derivative regulations. The analysis will focus on consistency, overlap, and the lack of norms in these regulations; 2) Legal Structure, as the institutional framework that supports the implementation of the law, includes law enforcement agencies (BNN, the Indonesian National Police (Polri), prosecutors, judges), rehabilitation facilities, and prisons. Friedman emphasizes that the structure is like the "engine" of the law; if the engine is damaged or out of sync, the legal product will not function; and 3) Legal Culture, Friedman's most crucial element, namely public attitudes, values, and opinions regarding the law. This is the "fuel" that drives the legal engine. In this study, the public's legal culture, which tends to be punitive and stigmatizing toward drug addicts, is a crucial variable hindering the effectiveness of rehabilitation (non-penal) policies (Mahendra, 2024).

At the meso level (middle range), Arief (2017) is used. This theory defines criminal policy as a rational effort by society to combat crime (crime prevention policy) (Vian & Saleh, 2024). The core of Barda Nawawi Arief's thinking is an integral approach that balances two paths, namely: 1) Penal Policy in the form of the use of repressive criminal law. This theory reminds us that criminal law has functional limitations and must be used sparingly (ultimum remedium). The use of excessive sanctions (over-criminalization) without considering the capacity of the system will actually be counterproductive; and 2) Non-Penal Policy in the form of prevention efforts, education, and social engineering to eliminate criminogenic factors. Barda Nawawi emphasized that non-penal policies are a strategic and key position in long-term crime prevention because they address the root of the problem (Faisal et al., 2024; Shodiq & Yuwannita, 2024). This analysis evaluates whether the National Narcotics Agency (BNN) has struck the right balance between "hard" (enforcement) and "soft" (prevention/rehabilitation) approaches, and how the New Criminal Code accommodates this balance.

At the micro-operational level, particularly in the context of regional autonomy and public management, the Collaborative Governance model from Ansell and Gash (2008) is used. This theory defines collaborative governance as an arrangement in which one or more public institutions directly involve non-state actors in a formal, consensus-oriented, and deliberative collective decision-making process (Febriansyah et al., 2025; Latif & Febrian, 2022).

Key dimensions to be analyzed include: 1) Starting Conditions, which examine the existence of resource imbalances or a history of conflict between institutions; 2) Facilitative Leadership, expressed through the role of the National Narcotics Agency (BNN) as a leader in mediating, empowering regional actors, and maintaining the rules of the game; 3) Institutional Design to determine the clarity of protocols, transparency, and inclusiveness within the Integrated P4GN Team; and 4) Collaborative Process, consisting of face-to-face meetings, trust-building, commitment to the process, shared understanding, and intermediate outcomes.

Based on these circumstances, this study focuses on answering the following research questions: 1) How does the legal framework for countering narcotics in

Indonesia align with international standards following the enactment of Law No. 1 of 2023, particularly regarding the reorientation of the death penalty?; and 2) How can a collaborative governance model be reconstructed to address institutional fragmentation between the central and regional governments in countering narcotics?

This study aims to compare Indonesian laws and regulations with international regulations regarding the handling of illicit drug trafficking as part of an organized crime network, specifically focusing on aligning national laws with global standards. Therefore, we analyzed the implementation of the National Narcotics Agency's criminal policy through penal and non-penal approaches and examined how these strategies are applied in practice. Furthermore, we explored patterns of cooperation and communication between the National Narcotics Agency and other related institutions, to understand the dynamics of drug control in Indonesia.

2. Methods

This research employs a normative legal methodology to examine statutory provisions and their practical implementation, and to assess non-penal legal remedies. In this context, the normative-empirical legal research paradigm (juridical-normative with a sociological approach) integrates doctrinal and socio-legal approaches (Nurhayati & Ifrani, 2021; Rizkia & Fardiansyah, 2023). This paradigm was chosen because the issue of harmonizing drug countermeasures cannot be fully understood solely through analysis of legal norms (law in books) but rather requires an evaluation of policy implementation in the field (law in action) (Sukmawan & Damayanti, 2025).

A juridical-normative research design serves as the primary foundation for analyzing legal construction, legislative harmonization, and systemic consistency within the penal and non-penal policy frameworks (Ariawan, 2013). Normative legal research was chosen for its ability to identify legal norms, principles, and theories to resolve legal problems (Efendi & Ibrahim, 2018). Meanwhile, an empirical-sociological approach is applied in a complementary manner to evaluate the effectiveness of policy implementation through quantitative data analysis (Badan Narkotika Nasional Republik Indonesia, 2023) and case studies of collaborative governance implementation at the regional level (Benuf & Azhar, 2020). The integration of these two approaches creates a holistic methodology capable of bridging the gap between normative ideals (*das sollen*) and empirical reality (*das sein*) (Barus, 2013).

In accordance with the characteristics of normative legal research, the data used are secondary data sourced from primary, secondary, and tertiary legal materials (Efendi & Ibrahim, 2018; Rifa'i et al., 2023). Primary legal materials consist of laws and regulations, court decisions, and other legal instruments that directly provide a legal basis for analyzing the National Narcotics Agency's criminal policy in the penal and non-penal approaches to the illicit trafficking of narcotics as an organized crime network in Indonesia. Primary legal materials include: 1) Indonesian Laws and Regulations, such as Law No. 35 of 2009 concerning Narcotics and Presidential Regulation No. 23 of 2010 concerning the National Narcotics Agency; and 2) International Regulations (1988 UN Convention Against the Illicit Traffic in Narcotics and Psychotropic Substances). Secondary legal materials serve to strengthen the analysis of the BNN's criminal policy in the penal and non-penal approaches to the illicit trafficking of narcotics as an organized crime network in Indonesia. This material includes literature reviews, prior research findings, expert opinions, and

scientific articles to support legal arguments and enrich theoretical studies. Tertiary legal materials serve as aids in strengthening the analysis and interpretation of primary and secondary legal materials. These materials are used to provide conceptual clarity and broaden understanding of the National Narcotics Agency's criminal policy analysis, focusing on penal and non-penal approaches to drug trafficking as part of organized crime networks in Indonesia.

The data collection technique used was library research of primary, secondary, and tertiary legal materials. The collected data were analyzed qualitatively and descriptively using a deductive approach. The analysis began by mapping ideal legal norms (*das sollen*), then contrasted them with empirical data on policy implementation (*das sein*). The identified gaps were then analyzed using Grand Theory, Middle-Range Theory, and Applied Theory to formulate precise policy recommendations.

3. Results and Discussion

3.1. Reorienting the Criminalization Paradigm: Harmonizing the Narcotics Law and the New Criminal Code

An in-depth analysis of national and international legal documents reveals a shift in Indonesia's criminal policy landscape. For decades, Indonesia adhered to a rigid retributive paradigm, reflected in Law No. 35 of 2009, which explicitly lists the death penalty as the primary punishment for serious offenses. However, the enactment of Law No. 1 of 2023 ushered in a new era of change that demanded immediate harmonization.

One of the most crucial findings in this study is the changing status of the death penalty. In the New Criminal Code (Articles 98 to 102), the death penalty is no longer the primary punishment but rather a special punishment imposed as an alternative. The most significant breakthrough is the introduction of a "10-year probationary period" (Aryanda et al., 2025).

This mechanism operates under the following logic: if a death row inmate demonstrates commendable behavior during the 10-year probationary period, their sentence can be commuted to life imprisonment through a Presidential Decree, subject to Supreme Court consideration. This represents a concrete implementation of modern criminal justice theory, which prioritizes social reintegration, even for perpetrators of serious crimes.

From the perspective of Friedman's Legal System Theory, this substantive change is highly progressive. However, it creates significant structural challenges. Law enforcement officials (prosecutors and judges) are now faced with legal dualism during the transition period (2023-2026). On the one hand, the existing Narcotics Law (lex specialis) still adheres to the old regime. On the other hand, the principle of favor rei (using the rule most favorable to the defendant) in Article 1 paragraph (2) of the old Criminal Code and the principle of transitoriness in the new Criminal Code require the application of more lenient principles.

Compared with international standards, particularly the 1988 UN Convention on the Illicit Traffic in Narcotics, Indonesia's position is unique. International conventions do not explicitly prohibit the death penalty, but international human rights organizations and the UNODC continue to push for a moratorium (UNODC, 2024; Wulandari & Setiyanegara, 2025). Based on the thoughts of Ariani et al. (2025), Mubarok and Pujiyono (2025), Susanto et al. (2024), and Tjandrawinata and

Heliany (2024), then comparatively, the legal construction of narcotics and the death penalty can be tabulated as in Table 1.

Table 1. Comparison of the Construction of Narcotics Law and the Death Penalty

Comparative Dimensions	Law No. 35 of 2009 (Status Quo)	Law No. 1 of 2023 (Future)	International Standards (UNODC/Conventions)
Philosophy of Punishment	Retributive (Revenge) & General Deterrence (General Deterrence).	Rehabilitative & Restorative (Balance of interests).	Public Health & Human Rights.
Death Penalty Position	Principal Criminal Penalty. Mandatory for certain violations (Article 114 paragraph 2).	Special Crimes. Alternative with a 10-year probationary period (Article 100).	Abolitionist (Abolition) or very strict restrictions (Most Serious Crimes).
User Approach	Ambiguous (Criminal vs. Patient). Often punished by imprisonment (Article 111/112).	Prioritize criminal supervision and social work for threats <5 years.	Decriminalization of use (Depenalization). Prioritize health interventions.
International Cooperation	Focus on extradition and joint operations.	Extending universal principles to transnational crimes.	Emphasize Asset Recovery and Mutual Legal Assistance (MLA).

Source: Author's analysis. Data processed. 2025.

The information in Table 1 shows that Indonesia is moving toward a middle ground (equilibrium). Indonesia has not completely abolished the death penalty (maintaining the rule of law and local legal culture that still favors harsh punishment). However, it has adopted a more humane "way out" mechanism in line with global trends. This is a manifestation of the "Indonesian Approach" to criminal policy, which seeks to balance the protection of society with that of the individual.

This transformation has strategic implications: 1) Transitional Legal Uncertainty, where there is a risk of a backlog of death row inmates awaiting execution or awaiting confirmation of sentence conversion, potentially giving rise to prison management issues and human rights lawsuits; and 2) The Need for Prosecution Guidelines, where the Attorney General's Office and the National Narcotics Agency (BNN) need to immediately develop new prosecution guidelines that integrate the evidentiary standard of "commendable behavior" to prevent this criminal change mechanism from becoming a transactional exercise.

3.2. Evaluation of Penal Policy Implementation: Failure of Deterrence and Overcrowding

Despite normative shifts, empirical evaluations of the implementation of penal policies by the National Narcotics Agency (BNN) and other law enforcement agencies reveal acute structural problems. Using Barda Nawawi Arief's Criminal Policy Theory, it is clear that overreliance on penal facilities has exceeded their functional limits. Prisons have become an ineffective means of repression. Data demonstrates a weak correlation between the severity of punishment and the decline in drug prevalence. The stagnant prevalence of drug abuse at 1.73% in 2023 (approximately 3.33 million people) demonstrates that the threat of the death penalty and life imprisonment does not necessarily deter syndicates or new users.

The biggest problem with the current penal approach is overcrowding in correctional institutions (Lapas) and detention centers (Rutan). According to data from the Directorate General of Corrections, drug convicts consistently constitute the largest percentage of the prison population. This creates a vicious cycle: 1) overcrowded prisons fail to fulfill their rehabilitative function; 2) "crime schools" exist within prisons, where novice users mix with professional dealers; and 3) weak controls allow drug trafficking to be controlled from behind bars (Harianja et al., 2024).

From Friedman's perspective, this situation represents a failure of the legal structure. Correctional institutions were not designed to accommodate the explosion

of inmates resulting from the indiscriminate "war on drugs." Aggressive penal policies without adequate infrastructure capacity actually undermine the authority of the law itself.

Furthermore, the issue of loose provisions and the criminalization of users is separate. Analysis of court decisions reveals distortions in the application of the articles. Articles 111 and 112 of the Narcotics Law (regarding possession/control) are often applied to users caught red-handed in possession of small quantities of narcotics (under SEMA No. 4/2010). In fact, philosophically and legally (Article 127), they should be directed to rehabilitation (Mahendra, 2024).

This phenomenon is likely due to legal culture factors and officials' pragmatism. From a cultural perspective, both society and officials still view imprisonment as the only just form of "punishment." Rehabilitation is often perceived as "liberation" or special treatment (Sulastri, 2023; Suprianto & Handayati, 2024). From a structural perspective, proving the "addict" element for rehabilitation requires time-consuming and costly medical and legal assessments, while proving the "possession" element (Article 112) is very simple from a procedural legal perspective. As a result, the penal route has become a pragmatic choice for investigators and public prosecutors to pursue the target of resolving cases (Arianto et al., 2025; Fransiska et al., 2025).

3.3. Evaluation of Non-penal Policy Implementation: Challenges of Rehabilitation and Prevention

Non-penal policies, which, according to Barda Nawawi Arief, should be the primary prevention strategy, in practice often become subordinate to penal policies. Examining the gap in rehabilitation capacity, the National Narcotics Agency (BNN) has developed sustainable rehabilitation services, but their reach remains very limited compared to the number of drug users. Of the estimated 3.33 million drug users, the capacity of government-run (BNN and the Ministry of Health) and private rehabilitation services still fall far short of the need (Maruf et al., 2024). The main obstacles are standardization and accessibility. There is a disparity in the quality of services between medical and social rehabilitation. Furthermore, rehabilitation programs are often concentrated in large cities, while drug abuse has spread to remote villages. Furthermore, the high cost of independent rehabilitation also acts as a barrier for low-income communities, discouraging them from reporting (the tip of the iceberg phenomenon).

A review of restorative justice implementation offers encouraging news. There is a positive trend in the application of Restorative Justice (RJ) to drug cases. The Republic of Indonesia National Police Regulation Number 8 of 2021 concerning Handling of Criminal Offenses Based on Restorative Justice and the Attorney General's Guidelines Number 18 of 2021 concerning Settlement of Narcotics Abuse Cases Through Rehabilitation with a Restorative Justice Approach as an Implementation of the Prosecutor's Dominus Litis Principle, have opened up discretionary space for investigators and public prosecutors to stop prosecution for pure abusers and divert them to rehabilitation (Mahadewi & YudhaPradnyana, 2024; Munandar et al., 2025; Wardani & Rustamaji, 2024). This condition is a progressive step in line with the spirit of the New Criminal Code. However, its implementation still faces accountability challenges. The public often suspects RJ as a transactional loophole ("peace article"). Therefore, the role of the Integrated Assessment Team (TAT), consisting of medical and legal personnel, is vital as an objective filter for determining who is eligible for RJ. Unfortunately, the TAT's presence is not evenly distributed across all districts/cities in Indonesia.

3.4. Optimizing Collaborative Governance: Breaking Through Sectoral Ego Barriers

An analysis using Collaborative Governance Theory (Ansell & Gash, 2008) shows that the narcotics problem is a cross-sectoral issue that has not been addressed due to institutional fragmentation. From a governance perspective, this can be analyzed through initial conditions, institutional design, and the collaborative process.

In the starting conditions, there is an imbalance of power and resources. The National Narcotics Agency (BNN), as the leading sector, has a large mandate but limited budget and personnel, even at the regional level. Meanwhile, regional governments (Pemda) possess resources (territory, budget, and mass audience) but often feel that narcotics issues are a vertical (central) matter, not a regional obligation (Hariyanti & Rahayu, 2024).

In institutional design, the presence of Integrated P4GN Teams in the regions is often merely a formality. Coordination meetings are rare, and there is no clear cost-sharing mechanism in the regional budget to support the P4GN program. Meanwhile, in the collaborative process, communication is often one-way (instructions from the BNN to the regions), rather than a deliberative dialogue to solve local problems.

This situation requires a breakthrough in the form of a Hexa-Helix collaborative governance model. Case studies in several progressive regions, such as Bandung and Surabaya, demonstrate the success of the Hexa-Helix collaborative model (Febriansyah et al., 2025). This model expands the collaboration actors beyond the Government (G) and Academics (A) and Business (B), but also involves the Community (C), Media (M), and Legal Aggregators (L) (Sukmawati & Alviandi, 2024). The roles of each actor in the Hexa-Helix Model are presented in Table 2.

Table 2. Role of Actors in the Hexa-Helix Model of Narcotics Prevention

Actor	Strategic Role in Collaboration	Implementation Challenges
Government (National Narcotics Agency, Regional Government, Police)	Regulator, Facilitator, Law Enforcer. Providing legal and budgetary support.	Sectoral ego, rigid bureaucracy, synchronization of central-regional budgets.
Academia (University, Researcher)	Evidence-based research, innovative rehabilitation methods, thematic KKN Desa Bersinar.	Research often does not translate into practical policies.
Business (Private Sector)	CSR for rehab facilities, vocational training for former addicts (post-rehab).	Tax incentives for companies that employ ex-addicts are not yet optimal.
Community (NGOs, Religious Figures)	The spearhead of early detection, peer mentoring, informal social control.	Dependence on donor/government funds, low program sustainability.
Media (Mass and Social)	Public education, anti-stigma campaigns, monitoring of officer performance.	Sensationalism of arrest news compared to educational/recovery news.
Law (Advocate, Paralegal)	Legal assistance for poor users, escorting the TAT process.	Lack of paralegals who understand addiction and health issues.

Source: *Author's analysis. Data processed. 2025.*

This model has been proven to increase community participation in the "Shining Village" (Drug-Free Village) program. The key to its success lies in the facilitative leadership of the National Narcotics Agency (BNNK) and Regional Heads, who can engage all actors and assign specific, valued roles. Furthermore, integrating the P4GN program into regional development planning documents (RPJMDs) ensures budget sustainability.

Ultimately, an integrative analysis of law and governance is essential to examine how the "10-year probationary period" mechanism for death row inmates in the New Criminal Code will shift the landscape of the National Narcotics Agency's law enforcement strategy from a physical elimination approach to a supervisory and developmental approach, which requires the readiness of collaboratively managed

correctional and rehabilitation infrastructure. Furthermore, a Critical Evaluation of Non-Penal Policies from a Regional Autonomy Perspective critiques the decentralization of narcotics affairs. This research demonstrates that the lack of synchronization in regional budget planning nomenclature is a significant obstacle to operationalizing non-penal (rehabilitation) policies, a finding highly relevant to the Ministry of Home Affairs' policies. Meanwhile, from the context of the synthesis of legal system theory and collaborative governance, the use of a combined analytical tool between Friedman and Ansell-Gash proves that the failure of narcotics control is not only due to weak regulations (substance), but also due to the absence of "facilitative leadership" capable of bridging the stigmatized legal culture of society with the bureaucratic legal structure.

4. Conclusion

Indonesia is undergoing a legal paradigm shift, moving from a hyperpunitive narcotics legal regime to a more balanced and rational one. The enactment of Law No. 1 of 2023 (the National Criminal Code), with its concept of a conditional death penalty, represents a milestone that opens the door to reforming criminal policy. This allows the state to remain firm against syndicates while providing a second chance for individuals who can be reformed.

Structurally, the current penal policy (imprisonment) is experiencing diminishing returns. Rather than deterring, it burdens the justice system and correctional institutions (through overcrowding) without significantly reducing the prevalence. This failure is caused by a disoriented legal structure that prefers the "easy path" of imprisonment over the complex path of rehabilitation.

From a governance perspective, the primary weakness in non-penal strategies (rehabilitation and prevention) lies not in a lack of good intentions, but in a poorly designed collaborative governance framework. Fragmentation between central agencies (BNN/Polri) and regional governments (Pemda/Dinas) leads to program duplication and budget inefficiency.

These findings highlight significant practical implications for improving community preparedness. First, there is a need to integrate and increase funding for rehabilitation programs to ensure a balanced approach that goes beyond penal measures and addresses the root causes of drug addiction. Second, strengthening interagency cooperation and formalizing communication between the National Narcotics Agency (BNN), law enforcement, and other relevant agencies will further improve decision-making and coordination of anti-drug trafficking actions. Third, efforts to align Indonesian narcotics laws with international standards, along with increased international cooperation, will enhance law enforcement and expand intelligence exchange.

The limitations of this study necessitate further research that explores the impact of community-level policies and the role of other social factors, such as poverty and education, in reducing drug trafficking. Research could be expanded by comparing rehabilitation programs in Indonesia with those in other countries and even examining the social reintegration of former drug convicts, including offering a more holistic view of the effectiveness of penal and non-penal measures. This agenda is essential for refining Indonesia's drug control strategy to better align with international human rights standards.

To improve the effectiveness of policies in addressing organized crime networks involved in drug trafficking, it is recommended that: First, the Ministry of Home Affairs and regional governments, in their efforts to institutionalize P4GN (Planning

for and Prevention of Drug Abuse and Illegal Drug Abuse) into Regional Planning, issue regulations requiring the integration of P4GN performance indicators (such as the number of Shining Villages or rehabilitation services) into the Regional Head's Key Performance Indicators (IKU) and the RPJMD (Regional Medium-Term Development Plan) documents. This would force regions to allocate specific budgets rather than simply grant funds incidentally. Technically and operationally, strengthening the role of sub-districts and villages can be achieved by optimizing the role of sub-district heads as coordinators of P4GN at the regional level to supervise the use of Village Funds for drug prevention programs, according to their priorities.

Second, the National Narcotics Agency (BNN) and law enforcement officials (APH) must draft a new Joint Regulation that aligns the Narcotics Law with the spirit of the New Criminal Code, specifically regarding guidelines for rehabilitation prosecution and a faster, more accurate, and more transparent integrated assessment mechanism to reduce the case backlog. In this context, it is mandatory to develop an integrated digital platform (Integrated Criminal Justice System for Narcotics) that connects and interoperates data from the BNN, the National Police, the Prosecutor's Office, and the Ministry of Health to monitor the user track record, ensuring that those who are rehabilitated truly recover and do not experience revolving door syndrome (in and out of prison).

Third, legislators and policymakers can immediately revise Law No. 35 of 2009 to be adjusted to the New Criminal Code, especially the decriminalization of use for addicts (changing criminal sanctions into sanctions for action/treatment), including clarifying the gradation of sanctions for couriers who are often victims of syndicate exploitation.

References

Ansell, C., & Gash, A. (2008). Collaborative Governance in Theory and Practice. *Journal of Public Administration Research and Theory, 18*(4), 543–571. https://doi.org/10.1093/jopart/mum032

Ariani, N. V., Yusuff, Y. Md. I., Yusof, Y., & Salleh, A. S. M. (2025). Reforming Indonesia's Drug Sentencing Law: Normative, Comparative and Restorative Justice Perspectives. *Journal of Cultural Analysis and Social Change, 10*(2), 3301–3313. https://doi.org/10.64753/jcasc.v10i2.2099

Arianto, G. N., Azzahro, S. S., Tanri, A., Warneri, M. R., Wening, P. P. P., Bajammal, M., Guevarrato, G., Masfufah, A., Permatasari, T. I. D. C., & Dharmalaksana, K. E. (2025). *Research on Impacts and Costs of Handling Narcotics Crime in Indonesia*. Indonesia Judicial Research Society. https://ijrs.or.id/en/publikasi-ijrs/research-on-impacts-and-costs-of-handling-narcotics-crime-in-indonesia/

Ariawan, I. G. K. (2013). Metode Penelitian Hukum Normatif. *Kertha Widya, 1*(1), 21–30. https://doi.org/10.37637/kw.v1i1.419

Arief, B. N. (2017). *Bunga Rampai Kebijakan Hukum Pidana: Perkembangan Penyusunan Konsep KUHP Baru*. Kencana.

Aryanda, A. D., Masyhar, A., & Wulandari, C. (2025). Obstacles to the Implementation of Death Penalty Sanctions for Perpetrators of Corruption in Indonesia. *Journal of Administrative and Sosial Science, 6*(1), 81–92. https://doi.org/10.55606/jass.v6i1.2094

Barus, Z. (2013). Analisis Filosofis tentang Peta Konseptual Penelitian Hukum Normatif dan Penelitian Hukum Sosiologis. *Jurnal Dinamika Hukum, 13*(2), 307–308. https://doi.org/10.20884/1.jdh.2013.13.2.212

Benuf, K., & Azhar, M. (2020). Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer. *Gema Keadilan, 7*(1), 20–33. https://doi.org/10.14710/gk.2020.7504

Cullen, D., & Hoyle, C. (2025). *The Role of Socioeconomic Factors in Indonesia's Punitive Drug Policy Regime*. https://www.law.ox.ac.uk/death-penalty-research-unit/report-role-socioeconomic-factors-indonesias-punitive-drug-policy

Rizkia, N. D., & Fardiansyah, H. (2023). *Metode Penelitian Hukum (Normatif dan Empiris)* (E. Jaelani, Ed.). Widina Media Utama.

Efendi, J., & Ibrahim, J. (2018). *Metode Penelitian Hukum: Normatif dan Empiris* (E. Wahyudin, Ed.). Prenadamedia Group.

Faisal, Yanto, A., Rahayu, D. P., Haryadi, D., Darmawan, A., & Manik, J. D. N. (2024). Genuine Paradigm of Criminal Justice: Rethinking Penal Reform Within Indonesia New Criminal Code. *Cogent Social Sciences, 10*(1), 1–17. https://doi.org/10.1080/23311886.2023.2301634

Febriansyah, R., Rahardian, R., Sofyan, M. M., & Yusup, R. M. (2025). The Hexahelix Model in the Prevention and Eradication of Narcotics Abuse in Bandung City. *Spirit Publik: Jurnal Administrasi Publik, 20*(2), 231–246. https://doi.org/10.20961/sp.v20i2.109972

Flora, H. S., Thuong, M. T. H., & Erawati, R. D. (2023). The Orientation and Implications of New Criminal Code: An Analysis of Lawrence Friedman's Legal System. *Jurnal IUS Kajian Hukum dan Keadilan, 11*(1), 113–125. https://doi.org/10.29303/ius.v11i1.1169

Fransiska, A., Okta, S., Istiqomah, M., Putri, N. S., Nelson, F. M., Aristo, A., Pangaribuan, P., Sofian, A., Rahmawati, M., & Ginting, G. L. A. (2025). *Buku Ajar Kaukus Akademik Reformasi Kebijakan Narkotika*. Divisio Legal Design. https://divisio.id/buku-ajar-kaukus-akademik-reformasi-kebijakan-narkotika/

Friedman, L. M. (1975). *The Legal System: A Social Science Perspective*. Russell Sage Foundation. https://www.russellsage.org/publications/book/legal-system

Harianja, T., Halawa, F., & Mandasari, Y. (2024). Implementation of the Role of the National Narcotics Agency in Implementing Rehabilitation for Drug Addicts. *International Journal of Law, Crime and Justice, 1*(2), 132–142. https://doi.org/10.62951/ijlcj.v1i2.80

Hariyanti, A., & Rahayu, T. P. (2024). Implementation of Good Governance in Improving Public Service Performance at BNNP Central Borneo. *Journal of Public Administration Science: Policy Dynamics Public Services and Bureaucracy Transformation, 1*(1), 1–6. https://doi.org/10.70074/jaspdt.v1i1.2

Jaya, C., & Hikmah, F. (2024). Legal Reform on Rehabilitation for Drug Users as an Ultimum Remedium Effort. *Jurnal USM Law Review, 7*(1), 364–375. https://doi.org/10.26623/julr.v7i1.8803

Latif, S. A., & Febrian, R. (2022). Collaborative Governance: Countering Narcotics Abuse in Indonesia. *Journal of Governance, 7*(3), 678–686. https://doi.org/10.31506/jog.v7i3.16673

Lubis, A. F. (2023). The Right to a Fair Trial: Comparative Analysis of International Human Rights Standards. *The Easta Journal Law and Human Rights, 1*(03), 116–126. https://doi.org/10.58812/eslhr.v1i03.88

Mahadewi, K. J., & YudhaPradnyana, I. M. (2024). Restorative Justice in the Enforcement of Narcotics Crimes in the Jurisdiction of the Badung Police. *Jihad: Jurnal Ilmu Hukum dan Administrasi, 6*(4), 2746–3842. https://doi.org/10.58258/jihad.v6i4.7553

Mahendra, J. R. (2024). Non Penal Policy to Reduce the Rate of Narcotics Crime Through a Double Track System. *Dialogia Iuridica, 15*(2), 029–052. https://doi.org/10.28932/di.v15i2.7888

Maruf, M. M., Hasan, L., Chowdhury, A., & Nabi, M. H. (2024). Current Perspectives on Substance Use Disorder in Bangladesh. In *Current Perspectives on Substance Use Disorders in South Asia* (pp. 37–62). Springer Nature Singapore. https://doi.org/10.1007/978-981-97-6619-2_3

Maryani, I. (2021). Dekriminalisasi Pengguna Narkoba: Politik Kriminal Penanggulangan Problematika Overcapacity Lembaga Permasyarakatan di Indonesia. *Yustitia, 7*(2), 159–172. https://doi.org/10.31943/yustitia.v7i2.141

Mubarok, R., & Pujiyono, P. (2025). Analysis of the Impact of the Implementation of the Death Penalty in the New Indonesian Criminal Code. *International Journal of Social Science and Human Research, 08*(09), 7135–7141. https://doi.org/10.47191/ijsshr/v8-i9-51

Munandar, T. I., Siregar, E., Rakhmawati, D., & Adamy, Z. (2025). Restorative Justice in Narcotics Crimes Investigation: Implementation, Challenges and Obstacles. *Mimbar Keadilan, 18*(1), 159–170. https://doi.org/10.30996/mk.v18i1.11961

Badan Narkotika Nasional Republik Indonesia. (2023). *Indonesia Drugs Report* (Vol. 5).

Nasir, S. (2025). The Ambivalence of Drug Policy in Indonesia: Law Amendment but "War on Drugs" and Punitive Approach Remain. *Pakistan Journal of Life and Social Sciences (PJLSS), 23*(1), 6531–6539. https://doi.org/10.57239/PJLSS-2025-23.1.00509

Nasution, R. P., Siregar, R. A. M., Ritonga, R. F., Ritonga, A. Z., & Siregar, R. A. (2023). Penghapusan Hukuman Mati pada Sistem Peradilan Pidana di Indonesia atas Lahirnya UU No 1 Tahun 2023 tentang KUHP. *Jurnal Hukum, Politik, dan Ilmu Sosial, 3*(1), 225–232. https://doi.org/10.55606/jhpis.v3i1.3249

Ngaisah, S., Haryono, H., & Yuliastuti, G. E. (2025). Literature Review on Public Policy and Social Impact in Drug Rehabilitation in Indonesia. *West Science Social and Humanities Studies, 3*(08), 1213–1221. https://doi.org/10.58812/wsshs.v3i08.2186

Nurhaliza B., S., Kaluku, J. A., & Puluhulawa, I. (2024). Mapping the Effectiveness of Restorative Justice Through Rehabilitation in Handling Drug Abuse Cases. *Estudiante Law Journal, 6*(1), 210–227. https://doi.org/10.33756/eslaj.v1i1.25590

Nurhayati, Y., & Ifrani, I. (2021). Metodologi Normatif dan Empiris dalam Perspektif Ilmu Hukum. *Jurnal Penegakan Hukum Indonesia, 2*(1), 1–20.

Putra, A. W., & Sutanti, R. D. (2020). Kebijakan Formulasi Pidana Mati Bersyarat dalam Perspektif Pembaharuan Hukum Pidana Indonesia. *Jurnal Pembangunan Hukum Indonesia, 2*(3), 319–330. https://doi.org/10.14710/jphi.v2i3.319-330

Rifa'i, I. J., Muksalmina, M., Harahap, K. N., Churniawan, E., Saragih, G. M., Pustaka, S. K., Purwoto, A., Rusydi, M. T., Mardiyanto, I., Junaedi, M., Bariah, C., Ramadhani, M., Agustiwi, A., & Surasa, A. (2023). *Metodologi Penelitian Hukum* (A. Ifititah, Ed.). Sada Kurnia Pustaka. https://repository.sadapenerbit.com/index.php/books/catalog/book/54

Shodiq, M., & Yuwannita, L. (2024). Criminal Law Policy (Penal Policy) in the Formulation of Criminal Sanctions Against Narcotics Crimes in Indonesia. *International Journal of Social Science and Human Research, 7*(04), 2461–2475. https://doi.org/10.47191/ijsshr/v7-i04-60

Sukmawan, Y. A., & Damayanti, D. (2025). Metode Penelitian Hukum Normatif dan Empiris sebagai Strategi Penguatan Perspektif Kajian Ilmu Hukum. *Notary Law Journal, 4*(1), 114–128.

Sukmawati, C., & Alviandi, D. (2024). Collaborative Governance in the Rehabilitation of Drug Abuse Victims in Medan City. *Proceedings of International Conference on Social Science, Political Science, and Humanities (ICoSPOLHUM), 4*, 1–9. https://doi.org/10.29103/icospolhum.v4i.401

Sulastri, L. (2023). *Pengaruh Obstruction of Justice yang Dilakukan Aparat Penegak Hukum terhadap Kepercayaan Masyarakat pada Sistem Peradilan di Indonesia*. Pustaka Aksara.

Suprianto, A., & Handayati, N. (2024). Penerapan Restoratif Justice pada Tahap Penyidikan terhadap Pelaku Tindak Pidana Narkotika. *Jurnal Penelitian Ilmiah Multidisiplin, 8*(12), 2118–7451.

Susanto, A., Sukama, S., & Jarodi, O. (2024). Pidana Mati Menurut Perspektif Undang-Undang Nomor 1 Tahun 2023 tentang KUHP. *Journal of Correctional Studies, 1*(1), 84–91. https://doi.org/10.52472/jcs.v1i1.369

Tjandrawinata, R. R., & Heliany, I. (2024). National Drug Resilience within the Legal Framework: An Analysis of Regulation and Implementation of Law Number 17 of 2023. *International Journal of Science and Society, 6*(4), 378–394. https://doi.org/10.54783/ijsoc.v6i4.1339

United States Department of State Bureau for International Narcotics and Law Enforcement Affairs. (2025). *2025 International Narcotics Control Strategy Report*. https://www.state.gov/2025-international-narcotics-control-strategy-report

UNODC. (2024). *World Drug Report 2024*. https://www.unodc.org/unodc/en/data-and-analysis/world-drug-report-2024.html

Vian, P. L., & Saleh, M. (2024). Effective Criminal Law Structure for Addressing Drug Abuse Cases. *International Journal of Social Science Research and Review, 7*(10), 175–180.

Wardani, E. A. K., & Rustamaji, M. (2024). The Implementation of Restorative Justice Policy for Narcotics Abuse Crime. *Prosiding Seminar Nasional Ilmu Pendidikan, 1*(2), 340–349. https://doi.org/10.62951/prosemnasipi.v1i2.63

Wibiyanto, F. S., & Sudarwanto, A. S. (2024). Perpetrator Abuse Narcotics Ongan Goal 1 Based on Perspective Sociology Law. *International Journal of Educational and Life Sciences, 2*(8), 972–983. https://doi.org/10.59890/ijels.v2i8.2414

Wulandari, S., & Setiyanegara, E. (2025). Legal Analysis of the Death Penalty for Drug Traffickers from the Perspective of Human Rights. *Jurnal Sosial, Sains, Terapan dan Riset (Sosateris), 13*(2), 68–79. https://doi.org/10.35335/3ew5ts32