

# **INTEGRATED POLICY MANAGEMENT OF NARCOTICS TRAFFICKING AS TRANSNATIONAL ORGANIZED CRIME IN INDONESIA**

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## ***Abstract***

*Indonesia is the closest state to the Southeast Asian Golden Triangle which is Asia's largest source of opium. Since 1990 until now, Indonesia has become marketing drugs for existence. The indicator of narcotics could be categorized as transnational crimes because of their internal factors and external factors, including drug abuse to the misuses authority by state officials to oversee on narcotics. As a sovereign state, Indonesia has policies in dealing with drug trafficking including transnational organized crime. One of them is by strengthening the performance of the National Narcotics Board of Correctional Institutions in combating narcotics in Indonesia.*

**Keywords:** *Integrated Policy; Narcotics Trafficking; Transnational Organized Crime*

## **1. Introduction**

Indonesia has strategic position on two continents and two oceans specifically for the traffic flow of world trade. In addition to the strategic position, positive impact still goes along with negative succession. The issue arose concerning the negative effects that are to be anticipated, either individually or in regional and international cooperation with other countries. The rise of drug crimes today, affect the living conditions of social, economic, cultural, defense and security of the state. The negative impact of narcotics is not only limited to addicts, but also to principles of society, nation, and state, that without an integrated treatment can lead to the collapse of a country, including Indonesia.

Based on the result of quantitatively and qualitatively, the Government's efforts for narcotics control is still far beyond expectation. Geography, economy, population, community lifestyle, and law enforcement is not an effective deterrent for the perpetrators, to render Indonesia as a potential market share of various forms of narcotics. The increasing number in narcotics cases is due to the lack of standardization in the system of recording, reporting and monitoring of its misuse.<sup>1</sup>

The Act No. 35, 2009 on Narcotics, said that narcotics on one side are the drugs or substances that are useful in the treatment of health care services and the development of science,

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<sup>1</sup> Fransiska Novita Eleanora, "Upaya Penyalahgunaan Narkoba Serta Usaha Pencegahan Dan Penanggulangannya (Suatu Tinjauan Teoritik)," *Jurnal Hukum* 25, no. 1 (2011): 439.

but on the other hand can lead to dependence which is very harmful if abused or used without control and rigorous monitoring and care. Narcotics can do for commercial purposes but it can be misused from the purposes of health and developing knowledge for the mankind that will damaging economic loss.<sup>2</sup>

The International Criminal Law has an important role in handling narcotics as a transnational organized crime, especially related to state criminal jurisdiction arrangements with one another.<sup>3</sup> The importance of these roles, not in spite of (3) three influencing factors, namely: the rapid advances in science and technology, the emergence of awareness of respect and protection of human values are universal, and the awareness of the international community on the need to work together in the face joint problems<sup>4</sup>. International Criminal Law is seen as a legal provision that is capable of as a means to regulate all acts or events beyond the territorial boundaries of a country.<sup>5</sup>

Prior to the issuance of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, international instruments related to narcotics, among others: the International Opium Convention of 1912 to combat the circulation and use of opium in the United States and Western Europe, Suppression of the Manufacture of, Internal Trade in and Use of, Prepared Opium, Geneva 11 February 1925 and the International Opium Convention 19 February 1925, as well as the Convention of 1931 on Suppression of Smoking, and the Convention for the Suppress of the Illicit Traffic in Dangerous Drugs of 1946, a form of the International Convention better known as 1953 Single Convention Narcotics Drugs.<sup>6</sup> The existence of various international instruments, countries which have ratified obliged to criminalize drug crimes stipulated therein as a form of international agreement. Indonesia's ratification of international instruments on narcotics, showing seriousness in dealing with narcotics as transnational organized crime.<sup>7</sup> From the various cases of narcotics as transnational

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<sup>2</sup> BNN, "Laporan Akhir Survey Nasional Perkembangan Penyalahgunaan Narkoba BNN Tahun Anggaran 2014" (Jakarta, 2014).

<sup>3</sup> Tolib Efendi, *Hukum Pidana Internasional*, Yogyakarta (Yogyakarta: Oustaja Yustisia, 2014).

<sup>4</sup> I Wayan Parthiana, *Hukum Pidaana Internasional* (Bandung: Yrama Widya, 2915).

<sup>5</sup> Romli Atmasasmita, *Tindak Pidana Narkotika Transnasional Dalam Sistem Hukum Pidana Indonesia* (Citra Aditya Bhakti, 1997).

<sup>6</sup> Direktorat Hukum dan Regulasi PPATK, *Kompilasi UU Tentang Ratifikasi Konvensi PBB Dan Standar Internasional Anti Pencucian Uang* (Jakarta: Direktorat Hukum dan Regulasi PPATK, n.d.).

<sup>7</sup> Oentoeng Wahjoe, *Hukum Pidana Internasional* (Jakarta: Erlangga, 2011).

organized crime, with a vast echo, seen in the case of the Bali Nine group, which the culprit is a group of Australian citizens and the case of Mary Jane from the Philippines.<sup>8 9</sup>

In the Bali Nine case, Renae Lawrence and Scott Rush were sentenced to life imprisonment while Andrew Chan and Myuran Sukumaran were found guilty of the death penalty because they were considered to be the leaders in the narcotics crime. The perpetrators who are sentenced to death are subject to Article 82 paragraph (1) letter a which states "Whoever without rights and against the law imports, exports, offers for sale, distributes, sells, buys, delivers, receives, becomes an intermediary in buying and selling or Exchange narcotics class I, shall be sentenced to death or imprisonment for a maximum of 20 years and a maximum fine of 1 billion rupiah"

The imposition of the sentence does not violate the rules of international law, because Article 6 paragraph 2 of the International Covenant on Civil and Political Rights (ICCPR) states that in countries that have not abolished the death penalty, the death penalty can only be imposed for the most serious crimes according to with the law in effect at the time the crime was committed.

Meanwhile, the case of Mary Jane, a Filipino who was caught at Yogyakarta Airport for carrying 2.6 kg of narcotics is currently still in progress. Mary Jane always argued that she was a victim of human trafficking. Jokowi's clemency filed was rejected by President Jokowi in December 2014 but he received a postponement of the death sentence.

Amber Marks, mentioned the implications of Spanish law in cannabis clubs regarding the consumption of personal drugs as a disturbance to private rights.<sup>10</sup> Meanwhile L. Berezin, et al in his journal mentioned the justification of the use related to the use of narcotics in medical environment by doctors as a medium in the treatment of patients for their illnesses.<sup>11</sup> In contrast to Damon Barrett who in his journal reveals the implementation of International Convention on the Rights of the Child with the reality of the death penalty for the perpetrators of narcotics.<sup>12</sup> Related to this, Mikhail Golichenko et al, who in their journal explained the impact of drug policies on human rights and UN human rights bodies dealing with violations in drug

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<sup>8</sup> Jenni Ryall, "The Story of the Bali Nine: How Two Australians Ended up Being Executed in Indonesia," *Mashable News*, 2915.

<sup>9</sup> Philippine Daily Inquirer, "Breakthrough for Mary Jane," *Philippine Daily Inquirer*, 2020.

<sup>10</sup> Amber Marks, *Defining "Personal Consumption" in Drug Legislation and Spanish Cannabis Clubs* (Cambridge: Cambridge University Press, 2019).

<sup>11</sup> L...[et.al] Berezin, "Lumbosacral Spinal Imaging And Narcotic Prescription For Patients Presenting To The Emergency Department With Non-Traumatic Low Back Pain," *Canadian Journal of Emergency Medicine* 21, no. 1 (2019): 296.

<sup>12</sup> Damon Barrett, "International Child Rights Mechanisms and the Death Penalty for Drug Offenses," *Human Rights Law Review* 17, no. 2 (2017), doi:<https://doi.org/10.1093/hrlr/ngx005>.

use.<sup>13</sup> Furthermore James Nunn, in his journal, revealed the criminal history of drivers related to narcotics use revealed by the British Police in 2015.<sup>14</sup> This article will discuss why Indonesia is a potential market for narcotics as a transnational organized crime? and how the policy integrative Indonesia in combating narcotics as a transnational organized crime?

## **2. Methods**

This article uses juridical normative approach by relying on the provision of the normative legal rules which are related to the subject matter in entitled “Integrated Policy Management Narcotics As Transnational Organized Crime In Indonesia”. This article uses descriptive analysis method, in which the analysis critically conducted to the subject of research, by using literature and documentary and also field research related to the main substance of the article. After the data have been collected, the next process is to identify, to clarify, and to analyze systematically, and finally all the research results is presented in a compiled final report.

## **3. Results and Discussion**

### **3.1. The Potential Narcotics Trafficking in Indonesia as Transnational Organized Crime**

#### **3.1.1. Serious Threat for Transnational Organized Crime Narcotics**

Geographical conditions, low quality of human resources primarily law enforcement of integrity, lack of improved detection, lack of awareness and public awareness of the dangers and negative effects of narcotics, poverty, the entrance of doing various modes of drug trafficking as a transnational organized crime by syndication networks trafficking nationally and internationally. In Indonesia, narcotics crimes<sup>15</sup> has been set out in Chapter XV Article 111 s / d of Article 148 of Law No. 35 in 2009. In the United Nations Convention Against Transnational Organized Crime in 2000, noted that as a transnational organized crime when a crime: carried out in more than one country; performed in one country but a substantive part of the preparation, planning, direction, and supervision is done in other countries; performed in one country but involves an organized criminal group that participated in criminal activities in more than one

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<sup>13</sup> Mikhail ; Suzanne Stolz; Tamar Ezer Golichenko, “Addressing Human Rights Abuses against People Who Use Drugs: A Critical Role for Human Rights Treaty Bodies and Special Procedures,” *Journal of Human Rights Practice* 10, no. 1 (2018): 83–102.

<sup>14</sup> James Nunn, “The Criminal History of Drug-Drive Offenders,” *Policing: Journal of Policy and Practice* 026 (2018).

<sup>15</sup> Supramono, *Hukum Narkotika Indonesi* (Jakarta: Djambatab, 2001).

country, and is done in one country but has a substantial impact on other countries.<sup>16</sup> According Muladi transnational organized crime, consisting of a core crime (major crime) which drug trafficking (narcotics/psychotropic) and follow-up crimes (crime-related) which include money laundering, trafficking, smuggling of illegal immigrants, etc. other.<sup>17</sup> Therefore the rampant circulation of narcotics that has spread to all walks of life, is a real threat to the destruction of the nation and country in the future.<sup>18</sup>

Trafficking through the sea lanes, narcotics can be trafficked by road where it made directly from a variety of outside areas using a courier service, and not a few also carried through air transport. This is reinforced by many disclosures of narcotics of various channels in Indonesia, either by National Narcotic Board of the Republic of Indonesia or *Badan Narkotika Nasional* (BNN), Police, Customs, Navy, Airport Authority, Immigration, and various institutions or agencies authorized to prevent, eradicate and prosecution of such crimes. The state has extended the blacklist of the proliferation of narcotics and also to make Indonesia as a potential market share for trading. Narcotics and the like have already reached everything groups and across the corners of the country. In this condition, the necessary action is fast, hard and measurable, to stop trafficking and drug abuse. In addition, all elements of the nation are expected to awareness and his participation is called to fight narcotics as transnational organized crime, for the safety of future generations a nation.

Indonesia as one of the countries in Southeast Asia, with the largest population in the world, became the main trafficking and narcotics international syndication network, not just for profit, but also for other purposes, namely to colonize and dominate the country concerned. Data BNN says that as many as 2.2% of Indonesia's total population are drug users and the like, in which more than 50% of users are young people. Narcotics and the like are produced in other countries, are intended to impair the mental and the future of the younger generation, which in turn easily colonized and controlled, if not recognized and anticipated and addressed as early as possible. The combined data BNN, Police and Customs in January-December 2017 mentions have uncovered 46. 537 drug cases, arresting 58 365 suspects, seized 4.71 tons of methamphetamine, 151.22 tons of marijuana, ecstasy pills 2,940,748 and 627.84 kg of liquid ecstasy. Narcotics as transnational organized crime, it is massive potential as a threat of

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<sup>16</sup> Illias and Susan Nash Bentekas, *International Criminal Law*, Second Edi (London: Cavendis Publishing Limited, 2003).

<sup>17</sup> Muladi, *Hak Asasi Manusia, Politik Dan Sistem Peradilan Pidana* (Semarang: Badan Penerbit Undip, 1997).

<sup>18</sup> Maudy Pritha; Sahadi Humaedi dan Meilanny Budiarti Santoso Amanda, "Penyalahgunaan Narkoba Di Kalangan Remaja (Adolescent Substance Abuse)," *Research Journal and PPM* 4, no. 2 (2017): 339.

destruction of a nation and an independent and sovereign state, albeit without the use of force and other modern weapons. Thus, without technologically advanced weaponry and troops were super strong, international drug syndicates clemency able to destroy the youth of a nation. its massive potential as a threat of destruction of a nation and an independent and sovereign state, albeit without the use of force and other modern weapons. Thus, without technologically advanced weaponry and troops were super strong, international drug syndicates clemency able to destroy the youth of a nation. its massive potential as a threat of destruction of a nation and an independent and sovereign state, albeit without the use of force and other modern weapons. Thus, without technologically advanced weaponry and troops were super strong, international drug syndicates clemency able to destroy the youth of a nation.

Related to law enforcement officers, Indonesia should be able to create the conditions of the country that is clean and free from drugs trafficking, from the ranks of law enforcement officials in the judiciary, government agencies in the ranks of executive agencies, and members of the Board within the ranks of the legislature, as well as relevant stakeholders and all levels of society, Therefore, the Government as a leading sector in the prevention, prosecution, and eradication of narcotics as transnational organized crime, should be able to ensure that there is no involvement of government officials, especially law enforcement officers and officers from other agencies or institutions concerned. Besides the importance of anti-narcotics education for the younger generation through compulsory the curriculum in schools to universities, to serve as a national program.

### **3.1.2. The Causalities of Narcotics as Transnational Organized Crime**

The massive factors narcotics as transnational organized crime in Indonesia, caused by internal factors and external factors. Internal factors identified come from within the individual that has been circulated and abusing drugs is not for the purpose of real and legally. The cause of internal factors such as the inability of individuals to say not related to trafficking and abuse of drugs, a strong desire to try, follow the trend of the times, the pressures of life strong, thin individual religious beliefs and narcotics offenders. While external factors causing drug as transnational organized crime may be environmental factors, economic factors, the availability of narcotics, human resources factor, mainly related to the low mentality and integrity of law enforcement officials who are corrupt, easily bribed and become backing in narcotics crimes.

While the negative impact of narcotics as transnational organized crime, in the long term, may threaten the destruction of the existence of a nation and the state, through the mastery of the younger generation who has a dependence on narcotics, without having to use military force armed. In terms of health, the negative effects of drugs, resulting in a healthy body and soul, among others, will affect the nervous system, resulting in addiction, dependence and difficult regardless, as well as the cost of treatment is expensive, changes in behavior, feeling, perception, and consciousness are always outside control are concerned. Narcotics are a source of criminal acts that can damage various norms in the life of society, nation and state.<sup>19</sup> This is reinforced by the emergence of massive public anxiety related to the behavior of the next generation which tends to lead to acts that violate social, religious and legal norms, as a result of narcotics abuse.<sup>20</sup>

Below are the reasons why someone becomes a victim of Narcotics abuse in Indonesia:<sup>21</sup>

**1) Want to Look Style;** One of its narcotic substances can MAKE Being Brave, Cool, Confident, creative, relaxed, and so forth. Cool effect seen by the other person may become a trend in certain circles so that people who use Narcotics will be called trendy, hip, fashionable, and so forth; **2) Solidarity Group;** A group of people who have a high degree of kinship between members typically have high values of solidarity. If the chairman or some group members are influential in the group using Narcotics, it is usually the other members either forced or not forced to use Narcotics that would come to feel like family camaraderie; **3) Eliminate Pain:** A person who has a disease or disorder that can cause unbearable pain that can make people so interested shortcut to treat the pain by using Narcotics and illicit substances; **4) Want to Try By;** feel interested in seeing the effects of the Narcotics, one can have a strong curiosity to sample the Narcotics. By feel interested in seeing the effects of the Narcotics, one can have a strong curiosity to sample the Narcotics. Unwittingly and desirable people who have been exposed to illicit substances that will be hooked and will do so again and again without being able to stop; **5) Participate;** follow up People who have become victims of Narcotics may be trying to persuade others that have not been contaminated, so that others join together to feel the pain she felt. Dealers and users probably will divide the free Narcotics as an introduction and will charge after the victim was hooked. So people who are invited will try to follow the style of

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<sup>19</sup> Muh. Adlin Sila, *Penanggulangan Penyalahgunaan Narkotika* (Jakarta: Balai Penelitian Agama dan Kemasyarakatan Proyek Pengkajian Pendidikan Agama, 2003).

<sup>20</sup> Akmal Hawi, "Teen Narcotics Addict: Study of Integrative Rehabilitation in Drug Rehabilitation Institutions Palembang Ar-Rahman Islamic Boarding School," *Tadrib Journal* 4, no. 1 (2018): 99.

<sup>21</sup> Johni [et.al] Najwan, "Factors Causes of Narcotics Abuse in Indonesia," *Journal of Law, Policy and Globalization*, 58, no. 3 (2017).

the wearer; **6) Problem Solving and Forgetting People**; who are plagued by many problems and wanted to run away from the problem can fall into Narcotics abuse, in order to sleep soundly, drunk, or so joyous; **7) Shows the rebel side**; Someone evil generally want to be seen by others as someone who feared that all desires can be fulfilled. With Narcotics will help shape the attitudes and behaviors that are not public and rebellious of the existing order. Users who wish to be considered great by his friends can use Narcotics without thinking about the effects of bad for him; **8) Eliminate Boredom Boredom, discomfort, and so forth**; for some have is something that is not pleasant and wanted to immediately disappear from the mind. Narcotics can help someone who is a lot of mind to forget the boredom that hit. Someone may pursue pleasure with the use of Narcotics that cause hallucinations / delusions fun; **9) Looking for a challenge**; For people who are happy to have a high risk activities (challenges), in carrying out the action there who use Narcotics in order to become the greatest, energetic and confident; **10) Feel Adults The Young Narcotics**; Users sometimes want to be considered an adult By Other People Live that can be free, so do Narcotics abuse. By becoming an adult as if that person can act at will, was already mature, free parents, teachers are free, and others; **11) Factor Families Family**; factors are important in the early use of illegal Narcotics. The family has an important role in the early development while protecting the initial use of Narcotics. If there is any conflict in the family where the problem is too difficult to resolve, causing depression, it can lead a person to use Narcotics in order to feel a calmness and away from the problems experienced; **12) Individual factors**; The reasons are usually derived from self as a cause of Narcotics abuse among others: (a) Curiosity is great to try, without knowing or thinking about consequences; (b) The desire to have fun; (c) The desire to follow the trend or style; (d) The desire to be accepted by the neighborhood or group; (e) Running from boredom, problems or trouble of living; (f) Understanding the wrong that occasional use does not cause addiction; (g) Not being able or not dared to face the pressure of the environment or social group for Narcotics use; (h) Not to say NO to Narcotics; and **13) Environmental factor**, environmental factors include: (a) *Family Environment* --- Relationships father and mother were cracked, the less effective communication between parents and children, and lack of respect between family members is a factor that contributed to someone on substance use disorders; (b) *School Environment School* --- the lack of discipline, is located near entertainment venues, less gives students the opportunity to develop themselves creatively and positively, and the student who uses Narcotics is a contributory factor occurrence of Narcotics abuse; (c) *Environment Peer* --- There is a need to be socially peers



encourage teenagers to be fully accepted in the group. There are times when Narcotics use is a matter yng important for teens to be accepted into the group and are considered as adults.

The negative impact of narcotics can be identified on the visible impact on the physical, psychological and social person. The negative impact on the physical looks of narcotics users, typically characterized by interference in the nervous the system, heart, lungs, blood vessels, skin and disruption of reproductive health and sexual function. While the negative effects in the form of a psychic on narcotics is characterized by slackness in work, looks tense, anxiety, loss of confidence, apathy and suspicion, dreamer, acting not properly controlled his emotions, difficulty concentrating, feeling irritated and depressed, the tendency to hurt himself itself, even some who committed suicide. The negative impact on the social impact of the drug on users, characterized by a tendency to experience mental disorders, anti social, ostracized by the environment, usually troublesome and embarrassing and burdensome to the family and the environment, his future becomes gloomy and messy. Therefore, it should be noted that a person who has abused and entangled narcotics for purposes that are not properly and in accordance with the laws and regulations in force, it will take a long time and costly to restore the physical, psychological and social as well as no guarantee to be normal as long as no consciousness and support of family, community and government and relevant stakeholders.

### **3.1.3. Indonesia as the Potential Market on Narcotics Trafficking**

Indonesian media reports said a potential market share of narcotics as transnational organized crime should be a common concern so that the existence of the Homeland will not be destroyed due to the impact caused massive. Besides economic growth conditions are getting better too, do not let it be the entrance to the increased demand and illicit trafficking and the like.

The indicator of Indonesia as a potential market share of international drug trafficking, at least seen from a variety of reports originating dealer catching success of China, who want to smuggle narcotics through Hongkong weighing 71.5 kg with target sales of big cities such as Jakarta, Surabaya, Palembang and other major cities more. The success of law enforcement officers catch the queen of marijuana, Schapelle Corby on smuggling of marijuana weighing 4.2 kilograms. The success of the police officers in cooperation BNN roll narcotics network of China-Hongkong-Indonesia, which consists of Agung Nugroho (citizen), Lo Tin Yau and Chau Fai Chueng (WN China) and Fan Koon Hung (WN Hongkong), who tried to smuggle narcotics types of shabu weighing 63.5 kg.

The high prevalence of trafficking and abuse of narcotics BNN survey in 2015, addressed by 2.18 percent, equivalent to 4.2 million, with details of 1.6 million recorded in the stage of trying to use, 1.4 million people are regular users, and 943 thousand person is a drug addict or regular users. Narcotics as transnational organized crime, not only targeting the urban society, but has penetrated to remote villages, indiscriminately on victims, ranging from commoners to officials who respect and dignity in both the executive, legislature and judiciary. Harsh conditions appear in the data BNN that says that students involved in drug abuse by 27.32%, amounting to 50.34% of workers, and the unemployment rate to 22.34%.

President Joko Widodo as the President of Indonesia has warned the dangers and the threaten of narcotics could be destructing a country as "emergency drugs". The drug is echoed Emergency certainly not an attempt to perform imaging, but solely in order to maintain the integrity of the Republic of the massive impact of narcotics as transnational organized crime. Agreed, the Head of BNN, Budi Waseso also said that illicit trafficking is not only a business issue but considering there was a systematic attempt to undermine and destroy the young generation of the nation of Indonesia. In addition, it can also be stated that narcotics causes marginalization and loss of social attachment of a population, increased crime and various acts of violence and political security instability, high costs of law enforcement, occurrence of unemployment and layoffs, and limited coverage of health services.<sup>22</sup>

National Narcotics Board Region Yogyakarta mentions the estimated needs of illegal narcotics in Indonesia type 158 million grams of marijuana, 219 million grams of methamphetamine and ecstasy 14 million items, contributing to making Indonesia the potential market for illicit trafficking and the like. Thus it is not surprising that Indonesia became an easy target for drug trafficking syndicate that carried out internationally to produce narcotics as much as possible to reap huge profits and fantastic. The existing data estimates, as many as 12 044 people annually consume narcotics and the like in excessive doses and also more than one type of drug simultaneously, there were 33 people per day die from the effects of drug abuse.

Indonesia is the potential market of narcotics trafficking as transnational organized crime, also can not be separated from factors lacking public awareness and participation in the crime. Communities are not concerned and play an active role in the environment, as one important element in the activities of the Prevention, Eradication, Abuse and Illicit Drugs (P4GN). Therefore, awareness and concern and participation society becomes important, as early

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<sup>22</sup> Patri dan Ingrid Irawati Atmosukarto Handoyo, "Perang Melawan Narkotika Pengelolaan Narkotika Oleh Negara, Perang Bukan Solusi," *Teropong Jurnal Peradilan Indonesia* 5 (2017): 12.

detection efforts against the dangers and effects of narcotics that is massive in the fabric of a well-integrated cooperation between the government, civil society, and other relevant stakeholders. Other supporting factors are associated with improving economic growth, followed by an increase in demand for narcotics. These conditions will create an international syndicate that will continue to make the best efforts to smuggle narcotics into Indonesia, as the largest country in the world population. Including the empirical facts that show that although the death penalty was often applied, but an international syndicate on illicit trafficking as transnational organized crime has not decreased to continue to make Indonesia's market share potential.

### **3.2. Integrated Policy Counter Narcotics as Transnational Organized Crime in Indonesia**

#### **3.2.1. National Legal Instruments Combating Transnational Organized Crime Narcotics**

Indonesia's anti-narcotics history<sup>23</sup> as transnational organized crime begins when the issuance of Presidential Instruction (Instruction) No. 6 of 1971 to the head of the National Intelligence Coordination (Bakin) to cope with six (6) national issues are very prominent, that is associated with the eradication of counterfeit money, prevention of drug abuse, prevention of smuggling, prevention of juvenile delinquency, prevention of subversion, and the supervision of foreigners, Based on the Instruction Instruction Bakolak Head BAKIN form of 1971 that one of the tasks and functions are tackling the dangers of drugs, consisting of representatives from the Ministry of Health, Ministry of Social Affairs, Ministry of Foreign Affairs, the Attorney General, which is under the command of and responsible to the Head of Bakin. Facing the growing narcotics problem, the next Government and Parliament passed Law No. 5 of 1997 on Psychotropic Substances and the Law 22 Act 1997 on Narcotics. Based on these two laws, through Presidential Decree (Decree) No. 116 of 1999 established the National Narcotics Coordinating Agency (BKNN). In the process, because BKNN chaired by the Chief of Police until 2002 can not perform the duties and functions optimally, then later changed to BNN BKNN by Presidential Decree No. 17 of 2002.

National Narcotics Board of Indonesia, which was established by Presidential Decree No. 17 Act 2002, is a non-structural institution under and responsible directly to the President. BNN has 25 members of Department and government agencies related to the Chief of Police As an ex-officio chairman who is directly responsible to the President. The main task is to coordinate the relevant government agencies in formulating policies and implementation in the areas of

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<sup>23</sup> Adrianus Meliala, "Badan Narkotika Nasional Dan Jebakan Kelembagaan," *Teropong Jurnal Peradilan Indonesia* 5 (2017): 3–4.

availability, the Prevention and Combating Drug Abuse and Illicit Narcotics (P4GN) and formed a task force task force-operational nature. It should be noted that because without the institutional structure that has a chain of command and only coordinative, BNN judged not work optimally and will not be able to deal with the problems that the more massive narcotics. Hence the publication of the Presidential Decree (Decree) No. 83 of 2007 on the National Narcotics Agency (BNN), Provincial Narcotics Agency (BNP) and the County Narcotics Agency / City (BNK), which have operational authority over the authority of members of BNN involved in the task force, which BNN-BNP-BNK is a partner at the national, provincial and district/city, each of which is responsible to the President, Governors and Regents / Mayors and the respective (BNP and BNK) had no-vertical structural relationship with BNN.

Based on People's Consultative Assembly or *Majelis Permusyawaratan Rakyat* (MPR) Decree No. VI / MPR / 2002 by the General Assembly of the People's Consultative Assembly (MPR) of 2002 has recommended the Parliament and the President may make amendments to Law No. 22 Act 1997 on Narcotics. Furthermore, the Government and Parliament endorsed and enacted Law No. 35 Act 2009 on Narcotics, in which BNN gave authority to conduct investigations and inquiries and a precursor to the criminal act of narcotics. Under Law No. 35 In 2009 the institutional status BNN into the Ministry of Non-Government Organization (LPNK) with a vertical structure to the provincial and district/city. BNN established in the Province of the Province, and in the District / Municipal formed BNN Regency / City. BNN BNN headed by a Chief who is appointed and dismissed by the President. BNN under and responsible to the President.

The Act No. 35 Act 2009 on Narcotics, the President issued Presidential Decree (Decree) No. 23 Act 2010 About the National Narcotics Board (BNN) and the implementing provisions of Article 67 paragraph (3) of Law No. 35 Act 2009 on Narcotics. Presidential Decree No. 23 of 2010 in essence only confirmed the position, duties, functions, and powers of BNN, as stated in Article 1 (1) of Presidential Decree No. 23 of 2010, that BNN is a non-ministerial government institution under and responsible to the President through the coordination of the Indonesian National Police Chief. Juridically normative based on Law No. 35 of 2009 concerning Narcotics, the application of the death penalty for narcotics offenders must be carried out in order to protect more humanity by killing one person or several perpetrators, and this does not conflict with

Human Rights.<sup>24</sup> The death penalty for narcotics offenders, as a last resort to protect and protect the community based on the principle of protection, so that the community does not conduct vigilante actions against the perpetrators of their crimes.<sup>25</sup>

### **3.2.2. The Coordination and Relationship between National Narcotics Board and Correctional Institution for Organized Crime**

It should be noted that given the drug is very useful and necessary as a treatment in the field of health and development of science, but if they are misused or used in accordance with the standards of treatment, as well as adequate supervision, can lead to dependence syndrome as well as the socio, economic and national security.

Currently the drug crime has penetrated into the whole area of the country and the various spheres of life, good education environment, work environment, and the neighborhood, and the neighborhood law enforcement agencies. A prison is a place of carrying out supervision on Parta prisoners by the penal system, as stipulated in Law No. 12 Act 1995 regarding Corrections. Furthermore, the Act No. 35 Act 2009 on Narcotics, has also confirmed that law enforcement officials are expected to work together to prevent and solve crimes. In connection with this, the institutional coordination between BNN and prisons drug-related crime, it is very important to do well, given the institutional one another has the main tasks, functions, and authority different,

In general the pattern of institutional relation is a form of interaction between two or more institutions in regulating and dealing with the problems of an object, so that the presence of a regular pattern of relationship between the two will be able to carry out the duties and functions of each institution. The pattern of the relationship between the National Narcotics Agency (BNN) and the Correctional (prisons), can be done through a pattern of relationships that are not hierarchical. Under the provisions of Article 1 of Presidential Regulation No. 23 In 2010, BNN is a Non-Government Organization which is under and responsible to the President through the coordination of the Indonesian National Police Chief. BNN is one of the institutions or organizations that have a formal organizational structure as stipulated in Article 5 of Regulation President No. 23 of 2010 About BNN. While the prison a technical unit of the Ministry of Law and Human Rights (HAM) of the Republic of Indonesia (RI) under the Directorate General of

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<sup>24</sup> Umar Anwar, "Penjatuhan Hukuman Mati Bagi Bandar Narkoba Ditinjau Dari Aspek HAM (Analisa Kasus Hukuman Mati Terpidana Kasus Bandar Narkoba : Freddy Budiman)," *Jurnal Legislasi Indonesia* 13, no. 3 (2016): 241.

<sup>25</sup> Fajar Hari Kundoro, *Faktor-Faktor Penghambat Pelaksanaan Hukuman Mati Bagi Pelaku Kejahatan Narkoba* (Jakarta: UI Press, 2009).

Corrections is responsible to the Head Office of the Ministry of Justice and Human Rights. In connection with the Directorate General of Corrections and Correctional Technical Implementation Unit, the pattern of the relationship and the mechanism of action is set in the Minister of Law and Human Rights No. M-01. PR.07.10 2005 regarding Organization and Regional Offices of the Ministry of Justice and Human Rights, Ministry of Justice Decree No. M.01.PR.07.03 1985 on Organization and Work Procedure Penitentiary.

In the framework of the handling of narcotics as the transnational organized crime committed in prisons BNN is basically not the pattern in a hierarchical relationship. Based on Presidential Decree No. 23 Thun 2010 on BNN on which the setting position and the organizational structure of BNN and Ministry of Law and Human Rights No. M-01.PR.07.10 2005 regarding Organization and Regional Offices of the Ministry of Justice and Human Rights, Ministry of Justice Decree No. M.01. PR.07.03 1985 on Organization and Work Procedure Penitentiary, there are no clear lines of authority or delegating authority or formal authority and responsibility to undertake certain activities of each institution both from BNN to prison or otherwise to implement drug treatment in prisons, because of these two institutions each has lines of responsibility in the makeup of a clear organizational structure and different. Thus it can be said that in the implementation of the tasks and functions of BNN and drug-related prison as transnational organized the crime carried out in accordance with the respective authority.

The pattern of the relationship of coordination, which is a process of uniting the activities of separate departments to achieve organizational goals effectively. Coordination is the process of integrating the objectives and activities of the separate units of an organization to achieve organizational goals efficiently. The relationship between BNN and drug-related prison as transnational organized crime are only for coordination. The coordinated relationship can occur between two or more if there are institutions in their respective functions and duties to the same object. In this case, the prison for National Narcotics Board and jointly carry out the duties and functions in handling abuse and illicit trafficking is happening in prisons. In a pattern relationship between BNN coordination with the Prisons required good coordination and harmonies in order to achieve common goals expected. Besides talking about the evaluation of narcotics prevention and eradication of the dimensions of content, implementation and impact of

policies that have been carried out, in practice it is not well understood by the authorities and the public and other stakeholders, coupled with a lack of concern for narcotics users.<sup>26</sup>

#### **4. Conclusions**

Indonesia was blessed the geographical conditions for exploring the ocean and land. In addition, abundant human resources can be abused as a favorable target drug trafficking. Internal factors favoring an individual's inability to resist the desire to use drugs. While external factors involving the environment, the economy until the venal state apparatus and to be protective in transnational crime. The environment is an important element in the active form of the Prevention, Eradication, Abuse and Illicit Drugs (P4GN).

In combating drugs, Indonesia has the National Narcotics Agency (BNN) established under Presidential Decree No. 17 in 2002 and then changed the status of legal status through Act No. 35 Act 2009 on Narcotics. Presidential Decree No. 23 Act 2010 concerning the National Narcotics Agency is a confirmation of the position, duties, functions and powers of BNN, as stated in Article 1 (1) of Presidential Decree No. 23 of 2010, that BNN is an institution of non-ministerial government (LPNK) which has the task of coordinating the relevant government agencies in formulating policies and implementation in the areas of availability, the Prevention and Combating Drug Abuse and Illicit Narcotics (P4GN) and form a task force-the task force is operational. With the development of medical science, drugs can be used as a medical treatment-controlled circulation. BNN through cooperation with Correctional Institution, the circulation is restricted by using the pattern of relationships which is a process of uniting the coordination of activities of separate departments to achieve organizational goals effectively. Coordination is the process of integrating the objectives and activities of the separate units of an organization to achieve organizational goals efficiently.

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<sup>26</sup> Uyat Suyatna, "Evaluasi Kebijakan Narkotika Pada 34 Propinsi Di Indonesia," *Jurnal : Sosiohumaniora-Jurnal Ilmu-Ilmu Sosial Dan Humaniora* 2, no. 2 (2018): 176.

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