High Stakes: Criminal Decision-Making Amongst Indonesian Drug Offenders

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Abstract

This study investigates the decision-making processes of Indonesian drug offenders within the context of the country's punitive response to drug crimes. Despite the implementation of harsh penalties, including capital punishment, the prevalence of drug offences remains high. Moreover, these punitive measures have inflicted profound harm on the country's social fabric, entrenching poverty amongst the lower socioeconomic classes and exacerbating prison overcrowding.

This research challenges the foundational principles of classical rational choice theory, by questioning its assumption of a risk-reward calculus wherein the severity of punishment plays a significant role, as this underpins the current legislative approach in Indonesia aimed at reducing drug offending. In doing so, it also explores alternative factors impacting the decision to commit a drug offence. Through a mixed-method approach based on semi-structured interviews, it reveals a complex interplay of individual, cultural, and systemic dynamics shaping criminal decisions.

Findings indicate that Indonesian drug offenders exhibit a good knowledge of the formal sanctions associated with drug crimes and have an elevated risk perception. However, their personal circumstances and the allure of immediate rewards allow them to discount such risks. The pervasive corruption within the criminal justice system further undermines rational risk calculations, while informal networks based on friendship and trust facilitate criminal behaviour. Lastly, personal factors such as impulsivity and fatalism also appear to influence their decision-making processes.

These multifaceted dynamics highlight the ineffectiveness of punitive measures in deterring drug-related crimes and call for a re-evaluation of Indonesia's drug policy. Moreover, this study emphasises the importance of considering cultural and contextual factors in understanding criminal decision-making processes, underscoring the need for a Southernization of the criminological field. Overall, the current research deepens our understanding of the decision-making processes leading individuals to commit drug offences within Indonesia, and advocates for policy reform which is context specific, and evidence-based.

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List of Abbreviations

AIDS	Acquired Immunodeficiency Syndrome
ACC	Anti-Corruption Court
ACCL	Anti-Corruption Court Law
ART	Antiretroviral Therapy
ASEAN	Association of South-East Asian Nations
BCE	Before the Common Era
BJMHS	Brief Jail Mental Health Screen
BNN	Badan Narkotika Nasional
CAT	Convention Against Torture
CI	Confidence Interval
COVID-19	Coronavirus Disease 2019
CNN	Cable News Network
CUREC	Central University Research Ethics Committee
DPP	Death Penalty Project
DPRU	Death Penalty Research Unit
DSM – 5	Diagnostic and Statistical Manual of Mental Disorders
DU	Discounted Utility
FDA	Food and Drug Administration
FFM	Five Factor Model
HEXACO	Honesty-Humility, Emotionality, Extraversion, Agreeableness, Conscientiousness, and Openness to Experience.
HIV	Human Immunodeficiency Virus
HPA	Hypothalamic-Pituitary-Adrenal axis
HRI	Harm Reduction International
ICCPR	International Covenant on Civil and Political Rights
ICDPR	Indonesian Coalition for Drug Policy Reform
ICJR	Institute for Criminal Justice Reform
IDR	Indonesian Rupiah
IJRS	Indonesia Judicial Research Society
KIP	Komisi Informasi Pusat, Central Information Commission
KPK	Komisi Pemberantasan Korupsi, Corruption Eradication Commission
KUHAP	Kitab Undang-undang Hukum Acara Pidana, Indonesian Criminal Procedural Law
KUHP	Kitab Undang-Undang Hukum Pidana, Criminal Code
LBHM	Lembaga Bantuan Hukum Masyarakat
LGBTQ+	Lesbian, Gay, Bisexual, Transgender, Queer +
M	Mean
MoH	Ministry of Health
MoSA	Ministry of Social Affairs

MUI	Indonesia Ulema Council
NSP	Needle Syringe Programmes
OST	Opioid Substitution Treatment
PKNI	Persuaduraan Korban Napza Indonesia, Indonesian Drug Victims Organisation
PPP	Partai Persatuan Pembangunan, United Development Party
OR	Odds Ratio
RAT	Routine Activity Theory
RKUHP	Rancangan Kitab Undang-undang Hukum Pidana, Draft Criminal Code
RPJMN	Rencana Pembangunan Jangka Menengah Nasional, Long-Term National Development Plan
RCT	Rational Choice Theory
RI	Republic of Indonesia
RUU	Rancangan Undang-undang, Law bill
SCP	Situational Crime Prevention
SD	Standard Deviation
SDGs	Sustainable Development Goals
SDP	Correction Database System
UK	United Kingdom
UN	United Nations
UNAIDS	United Nations Programme on HIV/AIDS
UNCND	United Nations Commission on Narcotic Drugs
UNODC	United Nations Office on Drugs and Crime
UPPS	Urgency, Premeditation, Perseverance, Sensation-Seeking
US	United States
USD	United States Dollar
WHO	World Health Organisation
WvS	Wetboek van Strafrecht

List of statutes

Wetboek van Strafrecht, 1881

Verdoovende Middelen Ordonnantie, 1927

International Covenant on Civil and Political Rights (1966). United Nations General Assembly resolution 2200A (XXI) https://www.ohchr.org/sites/default/files/ccpr.pdf

Law No. 1/1974. Undang-undang tentang Perkawinan. *Marriage law.*

Law No 8/1976. Undang-undang tentang Pengesahan Konvensi Tunggal Narkotika 1961 Beserta Protokol yang Mengubahnya. *Ratification of the 1961 Single Narcotics Convention and the Protocol Amending It.*

Law No. 9/1976. Undang-undang tentang Narkotika. *Narcotics law.*

Kitab Undang-undang Hukum Acara Pidana (KUHAP) (1981). *Indonesian Criminal Procedural Law.*

Law No. 8/1981. Undang-undang tentang Hukum Acara Pidana. *Criminal procedure code.*

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984). General Assembly resolution 39/46

Law No. 12/1995. Undang-undang tentang Pemasyarakatan. *Corrections Law.*

Law No 22/1997. Undang-undang tentang Narkotika. *Narcotics Law.*

Law No. 17/2007. Rencana pembangunan jangka panjang nasional (2005-2025). *National Long-Term Development Plan (2005-2025).*

Law No. 35/2009. Undang-undang tentang Narkotika. *Narcotics Law.*

Law No. 46/2009. Undang-undang tentang Pengadilan Tidak Pidana Korupsi. *Anti-Corruption Law.*

Rancangan Kitab Undang-undang Hukum Pidana (2019). *Draft Criminal Code.*

Kitab Undang-undang Hukum Pidana (2022). *Criminal Code.*

Rancangan Undang-undang Minol (2022). Rancangan Undang-undang Larangan Minuman Beralkohol. *Draft Bill on the Prohibition of Alcoholic Beverages.*

Law No. 1/2023. Undang-undang tentang Kitab Undang-undang Hukum Pidana. *Criminal Code Law.*

0. Introduction

Background

This research study endeavours to illuminate the decision-making processes that lead individuals to engage in drug offences within the Indonesian context. The project emerged from the need to scrutinise the assumptions underpinning rational decision-making to better understand the persuasiveness of the views espoused by the Indonesian government, and that inform drug policy legislation in a jurisdiction which pursues harsh responses to drug-related crimes. In 2023, Indonesia imposed at least 114 death sentences for drug offences, representing 94% of all capital sentences for the year (Human Rights International [HRI], 2024). The last round of executions (2015-2016) involved 18 people convicted for drug offences, convictions that President Widodo himself declared irreversible through clemency in December 2014, in order to combat the 'narcotics emergency' (Gunawan & Pamintori, 2019). While the last execution was in 2016, the lives of drug offenders are at risk from extrajudicial responses; the head of National Narcotics Board (BNN) Budi Waseso incited police officers 'not to hesitate to shoot to kill if they have to [because] if drug offenders go to jail they get free meals, which are paid by the state' (Kine, 2017). He also expressed appreciation for Duterte's ruthless approach in the neighbouring Philippines, which he framed as the president 'taking care of its citizens' (Davies & Reinard, 2017). President Widodo echoed the sentiment when he affirmed, 'gun them down. Give no mercy', referring to drug dealers, especially foreigners who resist arrest (Kine, 2017). This exacerbation of violent responses to drug offences may have been accompanied by an increase in extra-judicial killings, apparently on the rise since 2015,

with over 60 people being killed in 2017 according to Amnesty International (2017). Larasati (2018) reports even more staggering numbers of extrajudicial killings in 2017, stating that out of over 215 police shootings in narcotics cases, 99 people were killed. More recently, the Commission for Missing Persons and Victims of Violence (KontraS) stated that 72 extrajudicial killings had taken place between December 2021 and November 2022 (Strangio, 2022).

Moreover, the government has framed illegal substances as a tool for subversion used by foreign forces aimed at undermining and weakening new generations of Indonesian citizens (Gunawan & Pamintori, 2015; Gusti, 2014; Institute for Criminal Justice Reform [ICJR], 2017). This narrative ignores the significant domestic drug production which has increased in recent years, instead emphasising imported substances to politically instrumentalise the rhetoric in favour of a punitive response. Furthermore, it characterises most drug offenders as high-level traffickers, rather than the low-level couriers and users who are much more likely to engage in the drug trade and become part of the overcrowded Indonesian prison population. In terms of cross-border drug trafficking, Indonesia imports most of its illegal substances from Myanmar and from Afghanistan, and the government has strived to disrupt the source-transit-destination pipeline through crackdowns in the hope of destabilising drug networks, therefore decreasing the amounts of drugs available to Indonesian citizens (Akbar, 2023). Despite the highly publicised successful drug seizures by the BNN and the Indonesian National Police (INP) Special Narcotic Task force, surveys produced by the BNN show an increased prevalence of drugs in all the 34 provinces across the country (BNN, 2023).

At the national level, Indonesia's legislative measures, such as Law No. 35/2009, and the recently passed Criminal Code which mirrors its narcotic law, coupled with its

approach to drug crime investigation involving controversial methods like torture and extrajudicial killings, underscore the government's reliance on punitiveness to decrease drug crimes, betting time and time again on severity of punishment as a key deterrent (HRI, ICJR, & Lembaga Bantuan Hukum Masyarakat, [LBHM], 2020; Goodman-Delahunty, 2016; Nathalia, 2017; Styannes, 2013). Notwithstanding significant investments to increase the punitiveness of the criminal justice system, regional data indicate the failure of this strategy. In 2023, the BNN reported a 11.1% increase in drug abuse cases compared to the previous year, pointing to a consistent upward trajectory, considering the 36.5% surge from 2016 to 2017, and the 34% increase from 2018 to 2019 (BNN, 2017, 2020). In fact, not only has the drug trade thrived in the region, with a growing number of users being registered in the country, but the price of drugs has decreased in tandem with the heightened sanctions. Considering that methamphetamine is one of the most used drugs in Indonesia, and the most commonly used amongst the interviewees of this study, it is important to note how its minimum retail price in Indonesia has decreased, going from 153 USD per gram in 2017 to 45.2 USD per gram in 2022 (United Nations Office on Drugs and Crime [UNODC], 2023). Drug prices are a useful proxy for availability of drugs on the market, as well as for the risks which drug producers and sellers associate with the crime. It stands to reason that the price of illegal substances on the market should inflate to mirror the increased risks of dealing such substances when punishments are rendered more severe. As prices have steadily decreased through the years, it follows that not only has drug availability increased, but that people engaging in the drug trade have not needed to account for the higher risks associated with harsh sanctions by making illegal substances more expensive. This might be due to the ease of replacing drug couriers in the event of their arrest and incarceration, while the people at

the apex of the drug networks are unlikely to be arrested and convicted, considering the hierarchical structure of organised crime. However, Mankiv (2008) reports that, unlike other products, drugs are inelastic when it comes to their demand, arguing that people who buy drugs will not be deterred by an increase in price, as their need to consume the illegal substance will override any monetary preoccupation.

In conclusion, the efforts expended by the Indonesian authorities to intercept drug smuggling have often proved unfruitful due to the geographically peculiar nature of the country, with its many islands and porous borders, as well as the Hydra Effect which allows not only for route displacement, but for an easy replacement of any drug offender who is arrested and incarcerated (Akbar, 2023). Likewise, data on drug abuse cases in the country, drug prices, and drug availability suggests that the government's objective of decreasing drug offending through a highly punitive criminal justice system is not successful (BNN, 2023; UNODC, 2023). In 2019, the UN made the following argument in regard to the efficacy and ethics of punitive measures against drug offending:

> Punitive drug policies continue to be used in some communities, despite being ineffective in reducing drug trafficking or in addressing non-medical drug use and supply, and continue to undermine the human rights and well-being of persons who use drugs, as well as of their families and communities.

I personally share their view that harsh punishments associated with drug offenses in Indonesia are not only ineffective, but also detrimental to the fabric of society. It is for this reason that my approach to the current research project aims to inform future policies to be more mindful of the well-being of the individuals targeted by these deterrent measures.

Focus of Study

Having briefly outlined the current situation in Indonesia and the government's approach to curbing drug crimes, I will explore three main questions which will further elucidate the scope, objectives, and frameworks of the present study: 'Why drug offending?', "Why Indonesia?", and 'Why decision-making processes?'.

Why Drug Offending?

Since many regions in Southeast Asia are currently fighting what is described as a 'war on drugs', and as narcotics crimes are often punished very harshly by the criminal justice systems in this region, understanding the decisional processes which lead people to commit drug crimes despite the elevated risks is of paramount importance. In Indonesia, the legal framework surrounding narcotics, particularly Law No. 35 of 2009 on Narcotics, plays a crucial role in shaping how drug offences are conceptualised and prosecuted. Under this legislation, drug offences are grouped in broad categories such as possession, production, distribution, and trafficking, with the latter being a general term encompassing a wide range of criminal behaviours, from low-level couriering to large-scale drug production. Indeed, Art. 1(6) states that the 'illicit traffic of Narcotics and Narcotics Precursor is an activity or series of activities implemented without right or against the law and defined as a crime of Narcotics and Narcotics Precursor' (Law No. 35/2009, p. 4).[1] It follows that by identifying the illicit traffic of drugs in such broad terms, without specifying for instance the severity of the offense, or the amount of drugs over which an illegal activity is classified as trafficking, any drug-related offense can be characterised as illicit traffic of narcotics. The law does not clearly distinguish between individuals involved at different levels of the drug trade, leading to a

[1] English translation accessed through Flevin.com

situation where everyone, from street-level offenders to international drug smugglers, can be convicted under the same legal articles, only receiving different sentences in virtue of the quantity of narcotics involved (Saputro, 2023).[2] This lack of nuance in the definition of 'trafficking' blurs the line between the different hierarchical levels of the drug trade, making it easier for law enforcement and the courts to classify a wide range of individuals as 'traffickers'. Furthermore, a study by the Indonesian Judicial Research Society [IJRS] (2022), found that '44.6% of those charged with trafficking are 'end users' and 24% are merely involved as "couriers"', and that '40.6% of people charged with drug trafficking offences were in possession of quantities officially considered below one day of consumption (less than five grams for cannabis, and less than one gram for methamphetamine)' (p. 25).

Consequently, people who may only have a tangential role in the drug network may face severe penalties, including life imprisonment and, in some cases, even the death penalty, if they are found to be carrying over a set quantity of drugs. This legal ambiguity significantly impacts the way drug offences are prosecuted and punished in Indonesia, contributing to the massive increase in the prison population. Indeed, Indonesia's prison population has skyrocketed in recent years, going from 143% to 194.6% between the years of 2013 and 2023 with some facilities reaching 800% capacity (HRI, ICJR, & LBHM, 2020; LBHM & Reprieve, 2020; World Prison Brief Data – Indonesia, 2024). Prison overcrowding is a direct result of the overly punitive response to drug offending in the country, in turn worsening the conditions of the inmates and draining governmental resources needed to support an apparatus which is very strained. Moreover, a crucial reason behind the choice of focusing on drug offences lies in the nature of such crimes. Unlike homicide or assault, which are

[2] For instance, an individual charged with Art. 114 for delivering more than one kilogram of a drug in plant form, or five grams of drugs not in plant form may receive the death penalty regardless of their position within the drug network hierarchy.

often committed in the heat of the moment, drug offending is assumed to involve premeditation, especially when the production, sale, and trafficking of substances is involved. Even users, if engaging in regular consumption, will need to plan for drug acquisition. The presence of a temporal delay from the desire to commit the crime and the actual commission of it, both in the case of users and people who profit from the trade, implies a level of premeditation which is the main focus of interest of this research study. It is in the temporal lapse between the initial thought or offer to commit the crime and the decision to go through with it, leading to the eventual commission of the offence, that the severity of punishment should exert an effect, deterring the individual. However, the sweeping definition of 'trafficking' under Law No. 35/2009 and the punitive strategies adopted by the governments in the Southeast Asian region are not achieving the desired effect, as evidenced by the increase in volume of the drug trade in the region. Therefore, it becomes of paramount importance to investigate the decisional processes in which these individuals are engaging prior to the commission of the act and explain why severe sanctions have failed to prevent the drug crimes, and whether other variables might be more salient during the choice to offend.

Why Indonesia?

The research focuses on Indonesia as a case study within the broader Southeast Asian region. In the last few decades, this geographical area has witnessed an increase in punitive attitudes towards criminality, as exemplified by Rodrigo Duterte's extrajudicial killing sprees in the Philippines that left 12,000 dead, and Thai Prime Minister Thaksin Shinawatra's anti-drug campaign at the beginning of the 2000s that in only the first three months saw the deaths of 2,800 individuals suspected of being involved with the drug trade, often publicly

assassinated to display government determination in eradicating drugs from society (Human Rights Watch, 2008, 2018). As previously mentioned, soon after his election in 2014, Indonesian President Joko Widodo declared a state of 'narcotics emergency' and used this claim to justify the 18 executions that happened in the following two years, his 'shoot on sight' order for drug traffickers, and the urging of the population to take matters into their own hands through vigilantism: 'chase them, beat them, hit them' (Nasir, 2016).

Southeast Asia has been historically linked to the drug trade due to the presence of the 'Golden Triangle', an area between Thailand, Laos, and Myanmar renowned for its opium production. During the 1990s, Myanmar alone was responsible for more than half of the world's opium production and refined approximately 75% of its heroin (Southeast Asian Information Network, 1998, in Chin, 2017). Although opium production in Myanmar rose from 1,250 metric tons in 1988 to 2,600 metric tons in 1997, production dropped to 312 metric tons in 2005 (Lintner, 1998; United Nations Office on Drugs and Crime 2005). This decline coincided with a surge in the production of methamphetamine tablets, raising concerns about whether the region could ever become drug-free (Chin, 2017).

The relative simplicity of methamphetamine production in comparison to heroin spurred its rise in the region, especially during the late 1990s and early 2000s. Unlike opium, which requires large agricultural spaces and is more vulnerable to climate and eradication campaigns, methamphetamine can be produced with limited resources and fewer legal restrictions (Ephedra, a key precursor, is not subject to the same stringent controls); furthermore, methamphetamine production is facilitated by easily accessible techniques, with recipes for its production available on the internet. This ease of production, combined with a growing demand, has made methamphetamine a rapidly

expanding trade in Southeast Asia (Chouvy & Meissonnier, 2004). The Golden Triangle's shift from opium to methamphetamine production in the late 1990s and early 2000s reflects broader changes across Southeast Asia, as neighbouring countries also began to emerge as producers. In fact, in the late 1990s, Indonesian organised crime groups started to locally produce methamphetamine and ecstasy, a trend which has contributed to the increase in drug trading and drug addiction (UNODC, 2013).

Despite the often-local production, drugs in Indonesia are portrayed by the government as an external agent, brought in by foreigners to corrupt the youth and the national values, a narrative which the government uses to justify its highly punitive responses to the offences (ICJR, 2017; Gunawan & Pamintori, 2015; Gusti, 2014). Therefore, it is unsurprising to find that the majority of people executed for drug trafficking by the Widodo administration are foreign nationals, an opposite trend to that of his predecessor Yudhoyono. This shift in nationality of death row inmates has shone an international spotlight onto Indonesia's death penalty practices, highlighting how foreign nationality or minority ethnicity are risk factors for death-row inmates awaiting execution, violating the 'lack of arbitrariness' tenet that is necessary for the constitutionality of capital punishment (McRae, 2017). This policy also has the effect of strengthening Indonesia's position on national sovereignty and discouraging interference from foreign countries in its policies. For instance, even during the previous Yudhoyono presidency, Australia had been muted in its anti-death penalty advocacy due to the high number of Australian citizens sentenced to death in Indonesia and the fear that open condemnation would endanger their precarious situation (McRae, 2012).

Beliefs in the potential for drugs to corrupt and weaken the population, and an emphasis on their impact on younger generations, are also emboldening the claim that drugs

are a national emergency. Widodo's claims in 2015 that each day 40-50 people died in Indonesia due to drugs, and that 4.5 million people (2.6% of the population) were drug users, were based on research conducted by the BNN through methods that have been criticised for lacking credibility. For example, their definition of addiction inflated the number of serious drug addicts by including individuals who rarely use drugs. Estimates from the WHO from the same year instead reported the number of people who had used any drugs as 1.5 million, a third of the BNN estimate (Fagan, 2015).

According to the government narrative, incarceration is warranted even for minor drug offences, and long-term incarceration is needed to punish more serious drug crimes. Currently, according to Law No. 35/2009, and as reiterated by the new Criminal Code, which will come into practice in 2026, the minimum length of imprisonment for drug possession is two years, with a maximum of five. Considering that even moderate quantities of different drugs can shift a charge from simple possession to drug dealing, many inmates convicted of drug offences face sentences of up to twenty years; additionally, if the drugs weigh more than one kilogram in plant form, or are more than five trees, or more than five grams in a form other than a plant, the minimum sentence becomes six years and the maximum is life imprisonment or capital punishment (Law No. 35/2009). While there exists a double-track system which should divert drug users to rehabilitation rather than incarceration, data from 2015 shows that over a third of the country's prisoners (36%) was serving time for drug use (The Conversation, 2015). Moreover, only 6% of drug offenders were reported as diverted to mandatory rehabilitation in 2016, and, as of 2017, the Correction Database System (SDP) recorded 34,438 incarcerated drug users, further evidencing the inefficacy of this double track system to divert users towards rehabilitation (LBHM & Reprieve, 2020; Novian et al., 2018).

Lastly, a crucial answer to the question 'Why Southeast Asia?' and specifically 'Why Indonesia?' is given by the necessity to engage in criminological research in the Global South, and *about* the Global South. As Carrington and Hogg (2017) report, while 'almost 85% of the world's population live in what might be termed the 'Global South' [...] much of criminology – as a theoretical and empirical project – has overlooked the Global South' (p. 182). Criminology has been historically monopolized by the Global North; the theories that have come from this scholarship have been developed and tested in Northern contexts, and then copied and pasted – with minor edits – onto the Global South, expecting an adequate, if not perfect fit (Connell, 2014). Almost all research on decision-making and severity of punishment comes from the United States of America or the United Kingdom (for instance, Anwar & Loughran, 2011; Klepper & Nagin, 1989; Wilson, Paternoster, & Loughran, 2017). The risk of blindly borrowing theoretical assumptions and empirical criminological models based on a presupposed universality of Northern social theories creates distortions when applied to the Southern context, which then either renders it meaningless or produces results that are not representative of reality (Cain, 2000; Keim, 2010). This phenomenon was also influenced by what Connell (2007) defines as 'metropolitan' thinking: the belief that through modernization all societies would follow in the steps of the Global North. This process unironically mirrors many colonization ideologies entrenched in social evolutionism 'natural global difference' (p. 17) where modernization was used as a means to justify dominion over Southern populations, lacking the willingness to understand what is distant from the predominant mindset, and erroneously attributing to different contexts and cultures a surface similarity rather than opening a communication channel able to render the 'other' a multi-faceted and complex being (Connell, 2007).

For instance, an interesting point of reflection is how the individualistic conception of classical rational choice theory characteristic of Northern countries translates into regions that have more communitarian or collectivistic belief systems. In Indonesia, for example, an important foundation of morality, legality and behaviour is constituted by the Pancasila, a set of five principles on which the constitution is based, which elevates the common good over individual interests (Eldridge, 2002).

As a preamble to the 1945 Constitution, President Sukarno established the Pancasila, a set of five principles, to represent the 'fundamental State philosophy and Indonesian people's worldview' (Iskandar, 2016, p 725). His choice was driven by the idea of freedom of religion and ability to create unity through diversity, shying away from the majority Islamic religion, and instead basing the principles on what is commonly referred to as more 'indigenous values' (Iskandar, 2019). In fact, the Pancasila principles[3] are rooted in the traditions of the kingdoms that used to be present in the Nusantara region since 400AC (Munthe & Soge, 2018).

Pancasila prioritises the common good over personal interests, and decisions reached through consensus, aiming at reducing confrontation and increasing the communal benefits. It is quite vague in its formulation, a characteristic likely due to its roots in Javanese aristocratic culture and the importance the latter affords to qualities such as self-restraint, and its view of ambiguity as an 'elegant solution' (p. 73) to maintaining a

[3] The first principle of Pancasila is the God-head value, enshrining the role of religious values in the shaping of the country and guaranteeing tolerance of different religions. The second value of Humanity instead postulates that individuals need to respect themselves and others in virtue of their human nature, with the implication that laws are meant to protect people and not to harm them. Unity represents diversity and pluralism, and how they can be a base for Indonesian nationalism, while the Popular value stresses the democratic nature of the country, and specifically how crucial consensus through representative democratic deliberation is. Lastly, the principle of social justice is conceptualised as the natural goal of the previous values, all concurring to the creation of a fair and just social system (Najih, 2018).

cultural balance and withholding judgement (Iskandar, 2019). Yet, this ambiguity opens the principles to different interpretations. The issues caused by this policy of ambiguity and dubiety are also compounded by the political belief that 'the contemporary legal debates that have emerged in response to these conditions [have] aggravate[d] the problems rather than resolve them' (Bedner, 2013, p. 255), thereby creating a long-standing precedence of avoidance of critical legal issues, including capital punishment.

The Pancasila was 'enshrined as "sole ideology" (*asaz tunggal*) by Soeharto 40 years' (Hadiz, 2004, p. 149) after its formulation by Soekarno in 1945, serving as founding principles for the country and representing the imperatives of what is intended as 'Indonesia's exceptionalism'. However, Pancasila was also used to legitimise the government's authority, while at the same time preventing other principles or other belief systems from being considered as potential bases for the state foundation (Munthe & Soge, 2018). While they are generally regarded as positive by the people, they are also associated with the Sukarno presidency, denoted by policies aimed at power centralisation and authoritarianism; in this context, Pancasila can be seen as Sukarno's compromise between the main post-independence actors – nationalists, communists and Islamists – but also as a cover for his authoritarian measures. Following the end of his presidency, Pancasila's association with that era has seen a decline in its popularity; with the rise of the New Order between 1966 and 1998, the Pancasila became further diluted as new political parties and organisations were not required strictly adhere to it (Hadiz, 2004). Yet, in recent years, these principles have regained support, especially to counteract the desire of some Islamic political groups to replace it with sharia-based principles (Iskandar, 2016; 2019).

While Indonesia is not an Islamic State, 81% of its population are Muslim. That said, Islamic principles have struggled to find footing in the legal and political sphere due to pluralism and the population's favourable view towards Pancasila (Bureau of Statistics of the Republic of Indonesia, 2010; Elson, 2010). In the 1955 elections, Muslim parties reported only 44% of voters' support, and their hopes were further diminished by President Suharto's push towards secularism and modernisation during the New Order era. After the fall of the Suharto regime, in 1998, there was a re-emergence of the more conservative and traditional Muslim groups, however this newfound fervour gained very little support, with only one fifth of Indonesians favouring an Islamic state, and a continuously declining support until an all-time low in 2009 (Elson, 2010).

Despite the popularity of Pancasila and the seeming lack of interest in turning Indonesia into an Islamic state, it has often resorted to a form of legal populism called 'shariarization of the law', which infiltrates values inspired by Islamic religion into laws that in turn may violate civil and political rights at the lower regional levels. This trend has also been mirrored by the increasing concessions made to Islamic parties in recent years, often through sharia-inspired laws that are passed on the premise that, 'when [sharia-inspired regional moral regulations] have been tested in court, they have been upheld as legal because improving morality is clearly within the obligation of regional or municipal governments' (Bowden, 2013, p. 156). An example is offered by the region of Aceh, which has been given special dispensation to apply sharia law; although it is administered sparsely, news of public canings for gay couples or adulterers have caused international concern (Polymenopoulou, 2018; BBC, 2019). Moreover, the new draft of the Criminal Code is a testament to the strengthening of the Islamic will within the political landscape. For instance, the proposed legislation prohibiting cohabitation between non-married

couples, which indirectly renders illegal all same-sex relationships, is one of the signs that politicians are bucking under the pressure of the demands made by Islamic parties (Human Rights Watch, 2019).

As this thesis focuses on narcotic crimes, for the reasons described in the previous section, I believe it necessary to discuss how drug offences are conceptualised from a cultural and religious perspective in the region, especially taking into account the death-eligible nature of these offences.

While a wide range of Islamic groups and parties is present on the Indonesian territory, spanning the spectrum of religious conservatism and adherence to dogma, there is apparently agreement on support for harsh punishments, including death sentences (Elson, 2010). According to mainstream interpretations of the *Qur'an*, the death penalty is an acceptable punishment for actions falling under the category of *hudad*, which are considered the worst of crimes, including apostasy, murder, and robbery. However, some scholars argue that a death sentence is not inevitable under sharia law. Bassiouni (2004) in fact reports that, 'there is no mandatory death penalty, unless [...] the *haraba*[4] results in a homicide. In that case, they interpret the *Qu'ran's* provision on *haraba* as requiring the death penalty' (p. 180).

The matter loses clarity when it comes to drug offences, for which sharia law does not specify a punishment, and therefore sanctions are not justified by a primary law in Islam but rather by juristic discretion and analogical reasoning (*qiyas*) (Mumīsa, Jaber, & Macalesher, 2015). The *Qur'an* however mentions *khamr*, a word with the literal meaning of 'veil', which refers to 'any substance which causes clouding of the mind and interferes with rational thinking' (Baasher, 1981, p. 240), and that historically has been interpreted

[4] Brigandage, or going to war against Allah and the Prophet or any Islamic ruler (Bassiouni, 2004).

as wine or alcohol. Through the years, Islamic jurists have applied analogical reasoning and expanded the concept of *khamr* to also include the different types of drugs (Basheer, 1981; Mumīsa et al., 2015). While, consuming drugs is considered a more serious violation than alcohol intoxication, in virtue of its potentially higher detrimental effects on its users, users' families and wider communities, analogical reasoning requires that that any punishment be similar or lesser than the one in the original law (flogging for *khamr*) (Syafi'i, 2019). It follows that punishing drug use with the death penalty may be beyond the scope of what is allowed by sharia law, therefore not respecting the criteria of exception to the right to life inscribed in the *Qur'an* (Mumīsa et al, 2015). However, according to some Islamic jurists, there exists provisions in *siyasah shar'iyyah* (governance according to sharia) to increase and even double the penalty of a crime as damage control, or to rebalance the stability of a community (Husin, 2016).

Despite common knowledge of Islam's support for the death penalty, a much less discussed feature of the religion is the emphasis it puts on piety and forgiveness, as inscribed in the practice of *diya* (blood money), which is a pecuniary settlement between a perpetrator — or their family — and the family of a victim, instead of incarceration, physical punishment or the death penalty (Pascoe & Miao, 2017). According to the *Qur'an*, while it is ultimately up to the victim or the victim's family whether to accept the *diya*, it is implied that it is an honourable and preferable option (Mumīsa et al, 2015).

This aspect of the religion however is often forgotten, with many countries with an Islamic majority relying on harsh formal sanctions, including capital punishment, to maintain social control, or purge society of those they perceive as threats from outside agents. When in 1981 the Islamic Declaration of Rights was adopted, it read that, 'human life is sacred and inviolable, and every effort shall be made to protect it. In particular no

one shall be exposed to injury or death, except under the authority of the law' (Azzam, 1998, p. 104). This effectively creates a loophole that allows for the death penalty and limits the right to life, moving further away from those ideals of forgiveness within the concept of *diya* and towards the punitive stance many Islamic states or states with a Muslim majority have embraced (Schabas, 2000). It is however worthwhile mentioning that, on the other end of the spectrum, there has been some limited effort from within Muslim communities to push for abolition; the Arab Institute for Human Rights and the organisation Hands Off Cain met in Tunis in 1995 with the support of the European Community, to discuss capital punishment. This meeting resulted in a call to all Arab states to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights on the premise that 'within the Arab civilisational and cultural background, no real impediments exist and obstruct the evolution of secular legislations in the process of setting up limits to the death penalty and abolishing it' (Schabas, 2000, p. 234). Indeed, for many Muslim states, capital punishment becomes 'a policy choice, but not one which is necessarily mandated by the *Shari'a*. [...] Muslim states can therefore curtail the death penalty by legislation and remain consistent with the *Shari'a*.' (Bassiouni, 2004, p. 185).

Lastly, it is to be noted that while the *Qur'an* allows for the death penalty, it is not the only holy book to provide such punishment. The *Bible* too condones and justifies capital punishment, and yet partly because of the Catholic Church's public stance against the practice, and partly because of its tradition of separateness from the state, the teachings of the *Bible* related to the death penalty have been put aside in lieu of a more modern and secular approach to punishment (Anckar, 2014). A factor which might underpin the difference in religions' stances on the death penalty might be the conceptualisation of the

individual; while in Protestantism there is an accent on individualism, Islam prioritises the *ummah* (community of believers), therefore giving society priority over the individual (Anckar, 2014; Mathias, 2013). Within the Indonesian context, the ideals of harmony and community reflected in the Pancasila principles further prioritise the collective sphere over the individual one. Therefore, the punishment of one person to guarantee the safety, or re-establish the morality, of the wider community is seen as acceptable. Contrarily, in societies with a majority of Protestants or Catholics this is more likely to be seen not only as an infringement of the individual's right to life, but also as the 'desecration of a sacred social entity' (Mathias, 2013, p. 1255), a concept directly coming from the 'cult of the individual' – or 'religion of humanity' – as defined by Durkheim (1900) and deriving its roots from Humanism and Enlightenment (Mathias, 2013). Beccaria ([1764], 1963) offers a good exemplification of this concept, juxtaposing the illegality of taking one's own life with the state's ability to take an individual's life:

> Did anyone ever give to others the right of taking away his life? Is it possible that, in the smallest portions of the liberty of each, sacrificed to the good of the public, can be contained the greatest of all good, life? If it were so, how shall it be reconciled to the maxim which tells us, that a man has no right to kill himself, which he certainly must have, if he could give it away to another? (p. 24).

While sharia law is supposed to govern every aspect of life in Islamic societies, including the social order and criminal justice system, there exists the possibility for sharia laws to be amended or dismissed when necessary. This practice is called doctrine of necessity (*darura*), and it would allow for harsh punishments such as the death penalty for narcotic crimes to be outlawed in virtue of the evolving necessities of society. Yet, there appears to be an unwillingness among Islamic States, and within the Islamic-majority country of Indonesia, to consider the death penalty as obsolete, and do away with it (Schabas, 2000). It becomes evident that abolition would have substantial repercussions at

the political level, as the President would need to go against the will of the religious majority, an action that is furthermore hindered by the Indonesian's tradition (based on *Pancasila*) to achieve change through consensus, which often leads to stagnation and lack of discussion on major controversial practices or topics. This is further compounded by politicians' fears of taking a stand and revealing their opinion on contentious issues (Iskandar, 2019).

It becomes apparent then that the circumstances preceding criminal decision-making in Indonesia will differ significantly from those of individuals in other geographical and cultural areas of the world. Classic conceptions of rational choice theory do not take into consideration these differences, which are likely to have a systemic impact on the individual choice to commit a drug offence. One example is given by the lesser role historically attributed to informal sanctions (e.g. shame, ostracization from the community), and their connection to formal sanctioning systems in the Global North, which this thesis aims to engage with in an attempt to root the decisional process of drug offenders squarely within the Indonesian context, inclusive of the religious and cultural factors which shape a multitude of aspects and factors relevant to the queries at hand, from the importance of family relations to the dynamics between drug offenders and the criminal justice system (Nagin, 1998).

Studying state punitiveness and criminogenic patterns in Indonesia requires researchers to shift paradigms, discarding what are presumed as axioms on one side of the world, and be ready to put aside a theory altogether if it proves fruitless in a specific context. By doing so, we can contribute to the theoretical and empirical project of Southern Criminology, 'bridging global divides and creating intercultural epistemologies' moving away from the historical application of Northern theories in Southern contexts, and instead

developing theories that are specifically developed in the Global South, as I will endeavour to do in the conclusion chapter (Carrington & Hogg, 2016, p. 184). It is also necessary, when discussing the Global South, to maintain an awareness of its heterogeneous nature and avoid falling into the pitfall of amassing together entire portions of the globe that have been defined as belonging to the Global South, and instead appreciate regional and cultural differences, which in turn have an impact on the conceptualization and development of theories. For this reason, while I will at times mention Southeast Asia in reference to common historical and judicial patterns, the current research focuses exclusively on Indonesia.

Why Decision Making?

Since the rise of the new penology in the 1970s, with its 'actuarial turn', as well as its crime prevention and crime reduction strategies based on economic models of decision-making, rational theories of crime have laid the foundation for most of the relevant policies aimed at curbing criminal activity (Feeley, 2006). As previously touched upon, the Indonesian government has focused its crime reduction investments on the severity of the punishments it associates with drug offending, a stance it keeps supporting, in light of the recent passing of the new Criminal Code which further entrenches highly punitive narcotics legislation. These investments in punitiveness assume that, knowing the harsh sanctions they might incur, potential drug offenders will decide against going through with the criminal activity. This mechanism implies the presence of a clear deliberative stage in which potential offenders balance the rewards and the risks (including the severe legal consequences) of the drug crime they are thinking about engaging in. Considering that despite the harsh punishments for drug crimes inscribed in the narcotic Law No. 35/2009 there has been an

increase in drug offending in the region, this research aims to understand whether real criminal decision-making processes amongst Indonesian drug offenders meet the assumptions on which the government has built its highly punitive criminal justice system.

Research Questions

The first question which this study aims to respond to is, 'Who are the people imprisoned for drug offending in Indonesia?'. According to the previously introduced government narrative, narcotics are imported by foreigners to weaken the new generation of Indonesian citizens. Therefore, we wanted to test whether the individuals convicted of drug dealing in Indonesia are indeed foreign high-profile drug traffickers, as portrayed by the media and government. Overall, as only limited research has been conducted regarding drug offenders in Indonesian prisons, it is necessary to first delineate the demographics of the individuals who compose the sample for the current study.

Secondly, we aimed to investigate the interviewees' social, financial, and psychological circumstances at the time when they had decided to commit the crime. In line with modern understandings of rational choice theory, we wanted to explore a varied set of variables which might have impacted their decision-making process, from employment status to past criminal activity, to health, to familial conditions, etc. Likewise, we analysed their motivations for committing the drug crime, cognizant of the pressure that providing for one's livelihood or that of one's dependents, as well as the physical and psychological need felt by individuals who are addicted to drugs, can exert.

Thirdly, we focused on their knowledge of the law, possible consequences, and perceived risk assessment during the decision-making process. The question on this front is twofold: 'Had the interviewees been knowledgeable about the relevant drug legislation and

punishments associated with it?' and 'What had been their perception of the risks of arrest, conviction, and incarceration?'. Being knowledgeable of the illegal nature of an activity and its being punishable by law is a required condition for any rational criminal decision-making to occur. If a person is unaware of their action's illegality, any discussion of risk-reward calculi is rendered moot. Likewise, if an individual is unaware of the potential negative consequences associated with an illegal activity, such sanctions will not factor in the risk-reward calculus, likely skewing it towards offending in the absence of salient risks. Since past literature has primarily focused on formal punishment, we also posed the question of whether informal sanctions might have influenced the interviewees' decision-making. Such an inquiry considers that people do not make decisions in a vacuum, but rather that their choices will be in part shaped by their interpersonal relationships and connections to the wider community; the damage the crime might cause to this personal sphere therefore should be considered a social cost which adds to the risks of engaging in criminal endeavours.

In conclusion, these four research questions, regarding demographics, personal circumstances, knowledge and risk perception of formal and informal sanctions all coalesce to inform the decision-making processes of the Indonesian drug offenders we interviewed. This study of a comprehensive array of factors impacting criminal decision-making will problematise the simplistic vision of classical rational choice theory on which current legislation responding to drug offending in the region is based on. The objective is to illuminate which of these factors played a role in the decision-making of the interviewees, and which did not. Additionally, I offer possible explanations, based on the data from this research project, as to why some factors might not have exerted a significant influence during the decision-making process, despite the common assumption that they would. As this study

takes into consideration contextual factors, such as familial circumstances, connections with members of the community and an individual's perception of risk (based on their understanding of local law enforcement), this in turn provides a more culturally relevant picture of Indonesian drug offenders' decision-making processes, when compared to the static and simplistic one assumed by the government and based on Northern theorisations. As well, it explores cultural components of decision-making which have not been previously highlighted by Northern explorations of decision-making related to drug crimes.

Value of Research

First and foremost, by highlighting the shortcomings of current legislative approaches based solely on severity of punishment, it opens a discussion on alternative methods of punishment, especially in the case of drug offending, the nature of which has changed on the international stage, ranging from death-eligible, to decriminalised, to legal depending on the jurisdiction.

This research is also the stepping stone to a wider research project, with the current interview tool having served as a first draft for a subsequent iteration used to interview death row inmates and members of drug-using communities in Indonesia.

Additionally, this study is valuable in light of its aim to explore the personal circumstances and decisional processes of people who are rarely allowed to discuss their experiences through their own words. By adopting a mixed-method approach, this study fostered a sense of self-expression in any interviewee wishing to recount their story and discuss their personal circumstances and mental state. Moreover, as the literature concerning Indonesia and Southeast Asia at large is scarcer than that in the Global North, the importance of conducting such a study is clear.

As the current governmental strategy has not only proven to be detrimental to the health of offenders, but also to the Indonesian economy, with investments which have prioritised the punitive apparatus as opposed to the rehabilitative one, this study is valuable as it offers evidence-based arguments for shifting future legislation and policy towards approaches which go beyond simple sanction severity, to encompass alternative forms of punishment and harm reduction initiatives.

Structure of Thesis

In the following chapter, I give an overview of past and present relevant drug legislation. Moreover, I discuss the current punitive practices associated with drug offending, with a focus on incarceration and mandatory rehabilitation. Considering the recent developments on the legal front, with the passing of the new Indonesian Criminal Code as of December 2022, which was approved by President Widodo in January 2023, I also examine the immediate future of drug legislation, and critically analyse how such a change positions itself within the broader contextual reality of Indonesian politics and drug crime-reduction policies (Chapter One). The next chapter delineates the theoretical framework through which I analyse and make sense of the data gathered for the research. I engage with both classical rational choice theory, as well as with more modern versions of rational decisional models, which take into consideration factors other than mere severity of punishment. To offer a more comprehensive way of understanding the decision to commit a drug offence in Indonesia, I draw from theories from a variety of fields, such as neurobiology, sociology, psychology etc. (Chapter Two). The focus then shifts towards the methodologies used in this study. I outline the historical progression of the different iterations of the research design, from a purely quantitative research endeavour to a mixed-

methodology study based on semi-structured interviews. I explain the reason behind the adoption of the current approach, and then proceed to detail the following information regarding the study at hand: participants, materials, and procedure. In this chapter I also discuss the ethical considerations which the research team needed to address during the data collection phase and that I had to be considerate of during the data analysis, interpretation and writing stage (Chapter Three).

Following is the first of four empirical chapters, which describes the demographics of the participants, as well as their personal circumstances at the time they had decided to commit the drug offence, therefore responding to the research question, "Who are the people imprisoned for drug offending in Indonesia?'. In this same chapter, I also include a discussion on motivations behind the commission of the crime and the recruitment stage, to better understand why and how the participants had become involved in their most recent drug crime (Chapter Four). The second empirical chapter instead focuses on two required elements for rational criminal decision-making: knowledge of the law, understanding of the possible consequences, and perceived risk of arrest, conviction, and incarceration during the decision-making time. In this chapter, I highlight how, despite high levels of knowledge and risk perception, the individuals did not engage in rational decision-making, as evidenced by their choice to commit the crime despite the high risks. I then proceed to offer explanations as to why their decision-making differed from the calculus assumed by classical rational choice theory (Chapter Five). The third empirical chapter delves into a parallel set of sanctions, which informally increase the costs of criminal actions by damaging a person's social bonds and standing in the community. I analyse an array of informal sanctions and critically discuss how, despite the perceived

salience of many of these factors, the participants had managed to discount not only risks of formal punishments, but also those associated with personal social costs (Chapter Six).

Finally, the last empirical chapter focuses on illuminating more nuanced perspectives on the decision-making processes in which the individuals participating in this study engaged. By splitting the sample based on different variables, I show how some characteristics, such as educational achievement and unemployment might not have played a significant role in the process of legal knowledge formation or risk assessment, while engagement in the drug trade, previous arrest and conviction experiences, and informal networks might have been more significant (Chapter Seven).

The last chapter offers concluding remarks, tying together the objectives outlined in this introduction, the Indonesian contextual reality expressed in Chapter One, and the results of this study (Chapters Four to Seven), interpreted through the lens of the theoretical framework introduced in Chapter Two. In this concluding section, I also delineate limitations of the current study, as well as possible directions for future research, and conclude by discussing policy recommendations, based on the findings.

1. Drug Policies in Indonesia and Alternatives to Criminalisation

The Past

Drug policies in Indonesia are tightly rooted in laws passed by the Dutch during the colonial regime, more specifically the *Verdoovende Middelen Ordonnantie* of May 1927 (Malik, 2021). Indonesia's subsequent criminal code, the *Kitab Undang-undang Hukum Pidana* (KUHP) is not simply a product of Dutch influence, but rather the unification of the *Wetboek van Strafrecht (WvS)* which had been ratified in 1915 and had entered into force in 1918, only marginally revised to erase its colonial characteristics after Indonesia gained Independence in 1945 (ICJR, 2017; Octora, 2016). It would take a further thirty years for the law on drugs stipulated by the Dutch to be substituted by one created by the Indonesian government. In fact, it was only after the ratification of the 1961 Single Convention on Narcotics and the 1973 meeting of the People's Consultative Assembly calling for harsh penalties – including the death penalty – for drug offences, that Law No. 9/1976 was passed, and the narrative of narcotics as a tool for subversion started to emerge (ICJR, 2017). Notably, for the first time, this law included the possibility of rehabilitation for people suffering from drug addiction (Law No. 9/1976). As the government stated at the time (Law No. 8/1976, in Malik, 2021, p. 663):

> Our country is building a just and prosperous society. To do this, it takes all the energy and thoughts of every Indonesian citizen. This goal will soon be achieved if the people are in good physical and mental health, free from the bad effects of narcotics, stimulant drugs, tranquilisers and alcoholic beverages. With Indonesia's participation in the 1961 Single Convention on Narcotics and the protocol that changed it and ratified it as a law, international cooperation in the field of prevention and eradication of narcotics crimes can be carried out more securely and steadily. In addition, the provisions in the

> Single Convention and the protocol that amends them generally do not conflict with the interests of Indonesia and thus can be accepted and used as the basis for drafting national legislation in the narcotics sector.

With the ratification of the 1988 UN Convention on the Eradication of Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the Indonesian government substituted the 1976 law with new legislation controlling narcotics, Law No. 22/1997. Some notable additions to the latter were a novel categorization system for narcotic substances and the conceptualization of conspiracy as an aggravating factor. However, the failure of this new law to effectively impact the drug trade spurred the People's Consultative Assembly to propose further changes in order to curb the threats posed by illicit drugs, eventually resulting in Law No. 35/2009, which remains in use (Malik, 2021).

The Present

Law No. 35/2009 established the National Narcotics Agency (Badan Narkotika Nasional [BNN]) as the agency formally tasked with the control of illicit drugs and was aimed at accomplishing four main objectives: 'ensure availability of drugs for health services, science and technology development; prevent, protect and save the nation from drug abuse; eradicate illicit trafficking of drugs and precursors; control medical and social rehabilitation' (LBHM & Reprieve, 2020, p. 7). There are plans to revise the narcotic law by 2024 according to the national agenda, and although no details have been released yet, Gunawan (2020) considers it unlikely to include 'any degree of decriminalization' with reform only likely to occur 'when overcrowding in the prison system leads to massive drug trafficking in prisons or riots' as currently 'there is no political gain in defending drug policy reform, while the hard line, the war on drugs, pays political dividends' (Gunawan in Campos Mello, 2020).

Through the years, Indonesia has accepted and ratified several international conventions pertaining to the issue of drugs. As previously mentioned, it ratified the Single Convention on Narcotic Drugs of 1961, then a decade later the Convention on Psychotropic Substances, and in 1988 the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Despite these concerted efforts to curb the illicit drug trade, and the 1998 target set by the UN General Assembly to eradicate it, or at least to 'reduce [it] significantly' within ten years, in 2009 the United Nations Office on Drugs and Crime (UNODC) released a declaration of failure accompanied by further action plans to ensure a balanced strategy (UNODC, 2009). Furthermore, Indonesia's harsh eradication policies have had the collateral effect of increasing 'violence, crime, marginalization and other harmful outcomes for vulnerable people' (LBHM & Reprieve, 2020, p. 7). In 2016, the UN General Assembly released an Outcome Document reporting the conclusions from their Special Session on the World Drug Problem and highlighting the areas in need of development to efficiently fight illicit drug trades without violating human rights. More specifically, it emphasised the role of harm reduction, the need for guaranteed access to controlled medicines, and affirmed a respect for human rights and dignity when developing drug-related programmes and strategies; even more importantly, it introduced the idea of a 'complementary and mutually reinforcing' (p. 3) relationship between efforts to eliminate drug problems and the Sustainable Development Goals (SDGs) as detailed in their 2030 Agenda for Sustainable Development (UNODC, 2016).

At the regional level, already in 1976, ASEAN (Association of Southeast Asian Nations) laid a foundational framework for regional cooperation on drug control, the process beginning with the ASEAN Declaration of Principles to Combat the Abuse of Narcotics Drugs. This declaration marked the beginning of ASEAN's zero-tolerance

approach toward drug abuse and was strongly influenced by the language of the 1961 UN Single Convention on Narcotic Drugs, which framed drug abuse as a social and economic threat to society (ASEAN, 1976; Gunawan & Lai, 2018). Through the 1976 declaration, ASEAN countries committed to 'exchange information on individuals, gangs and syndicates in the territory of each Member Country; Organising efforts to eliminate the illicit cultivation of opium poppy, cannabis and coca bush; Organising efforts to eliminate the illicit manufacture of drugs' (p. 1-2), as well as to cooperate on drug-related research and education and improve national legislation against drug offending (ASEAN, 1976). This collective effort was part of the broader geopolitical role of establishing ASEAN as a region which prioritises strong approaches to drug control, in alignment with the global war on drugs (Gunawan & Lai, 2018).

By the 5th ASEAN Summit in 1995, ASEAN set the goal of creating a drug-free region, leading to even more cooperative initiatives to eradicate drug offending, and in 1998, the Joint Declaration for a Drug-Free ASEAN reiterated the timeline for the shared regional vision which had been adopted by ASEAN in December 1997 at the Second Informal Summit in Kuala Lumpur, seeking to eliminate the drug trade by 2020 (ASEAN, 1998; ASEAN, 2012). This date was then optimistically brought forward to 2015 during the 33rd ASEAN Ministerial Meeting on Drug Matters in 2000, but which did not influence the success of the strategies, deemed to be a failure by 2016 (ASEAN, 2000; LBHM & Reprieve, 2020). Still, Indonesia had vowed to be a more active participant in international relations in its Long-Term National Development Plan (RPJMN 2005-2025), which was divided into four five-year medium-term plans and included eliminating discrimination as well as providing equal justice to all citizens (Law No. 17/2007). More recently, in response to the previously mentioned UN 2030 Agenda for Sustainable

Development based on the premise of 'leave no one behind', President Widodo established a national team to tackle the Sustainable Development Goals (SDGs)[5] listed in the agenda and review their progress (Republic of Indonesia, 2017). The national 'war on drugs' however has had a negative impact on these goals: it entrenched poverty and inequalities, spread violence and discrimination against drug users and their families, and further corrupted the criminal justice system. In turn, this caused decreased access to public health and overcrowded prisons, at times up to 800% capacity (Harm Reduction International [HRI], ICJR, & LBHM, 2020; LBHM & Reprieve, 2020). Despite the many harms the national campaign against drugs has caused to the furthering of the SDGs, the latest RPJMN (2020-2024) still declared drugs as a threat to national security without addressing the impact the 'war' has had on the country's progress.

Notwithstanding the multiple revisions to the narcotics legislation, the ratified conventions, the national targets towards achieving a more progressive Indonesia, and the global impetus towards decriminalisation, the country's position within the regionally active 'war on drugs' – coupled with its strong rejection of international influences – have made Indonesian governments impermeable to the recent movement for gentler approaches towards drug-offenders. Through all the changes Indonesia has witnessed since the beginning of its *Reformasi*[6] era, one thing has remained unchanged: harsh punishments have consistently been the response to drug offences (Law No. 35/2009), criminalising low-level drug users who could benefit from a more health-based approach, and executing

[5] The Sustainable Development Goals (SDGs) listed by the UN are: no poverty, zero hunger, good health and well-being, quality education, gender equality, clean water and sanitation, affordable and clean energy, decent work and economic growth, industry innovation and infrastructure, reduced inequalities, sustainable cities and communities, responsible consumptions and production, climate action, life below water, life on land, peace, justice and strong institutions, and partnerships for the goals (LBHM & Reprieve, 2020).
[6] With *Reformasi* era it is intended the time frame spanning from the end of Suharto's authoritarian presidency in 1998 to present times (Diprose, McRae, & Hadiz, 2019).

sellers or couriers (LBHM & Reprieve, 2020), even in cases involving vulnerable populations, as was the case for Rodrigo Gularte. Gularte was executed in 2015 despite having been diagnosed with paranoid schizophrenia and bipolar disorder, notwithstanding initial reassurances that he would not be executed before his health could be restored, a controversial execution considering the nature and severity of his disorders. According to the priest who visited him in his final days, Gularte did not have clear comprehension of the forthcoming execution (Safi, 2015).

Such gross breaches of due process safeguards and human rights appear to be tolerated by the population as drug traffickers tend not to inspire sympathy or compassion. This is further complicated by the alienating narratives adopted by the government, which encapsulate key characteristics of populist discourse, and specifically of medical populism. By 'othering' drug users and drugs offenders, the state creates a deep division between 'good' and 'bad' citizens (Becker, 1963); by boasting bloated estimates of drug use and its harms, it also fuels the perception of crisis, silencing nuanced discourse about drugs and focusing only on their dangerous and disruptive qualities (Lasco & Curato, 2019; Lasco, 2020).

New Criminal Code

In 1963, the National Law Seminar exhorted the government to reform the Criminal Code, with a focus on shedding its anachronistic colonial vestiges inherited through the *Wetboek van Strafrecht*, and introducing legislation able to respond to the needs of the Indonesian people; the following year, an initial draft of the Criminal Code was developed, becoming only the first of at least 15 iterations in the past 58 years (Najih, 2018). In 2019, a new draft of the Criminal Code (*Rancangan Kitab Undang-undang Hukum*

Pidana, 'RKUHP') was circulated among the public and received extensive criticism for its rather regressive position on blasphemy, cohabitation, sex before marriage, and the corresponding implications for the LGBTQ+ community (Human Rights Watch, 2019; Widianto, 2019). In order to curb further backlash and prevent future protests, the government did not release any further drafts until summer 2022. Deputy Law and Human Rights minister Edward Oman Sharif Hiariej explicitly refused to share the latest draft of the RKUHP for fear it would cause 'unrest', and yet stated that the government would pass the revised version of the RKUHP by August 17, 2022, on Indonesia's 77th Independence Day (Human Rights Watch, 2022). It is also to be considered the Covid-19 outbreak slowed the work on the criminal code (Human Rights Watch, 2022). While the new draft was eventually shared with the public in July of the same year, the code was not passed on August 17th, but rather it was approved by parliament on December 6th, 2022 and received presidential approval on January 2nd, 2023, as Law No. 1/2023 (Human Rights Watch, 2022; KUHP, 2022). The code is currently undergoing a three-year embargo, ending in early 2026, giving time to criminal justice system workers – from police officers, to lawyers, to judges – to familiarise themselves with the changes. Yet, Art. 621 of the KUHP makes it clear that all regulations must be issued by the two-year mark from its enactment (Butt, 2023).

The government's reluctance to share their proposed new criminal code with the public from 2019 to 2022 raised many heated discussions regarding the importance of transparency in the legislative process (National Alliance for Criminal Code Reformation, 2021). As the KUHP is supposed to reflect the needs of the public, and therefore be subject to its approval, transparency becomes crucial. While the government has said they have conducted 'socialisation' sessions with members of the public to test the code and

minimise opposition, the extent of these sessions has been contested by critics, especially in light of how these 'public consultation meetings [held] in 12 cities', as Hiariej boasted, were conducted. The meetings involved PowerPoint presentations aimed at explaining the draft law without any discussion on the actual contents, as they were not released among participants (Human Rights Watch, 2022). Additionally, when members of the National Alliance for Criminal Code Reformation were invited to the socialisation sessions in June 2021, they were only allotted one hour for their feedback, while the government officials were given triple the time; moreover, they found no differences between the draft circulated for the session and the one which had caused so much social unrest in 2019, further evidence that the government had not responded to the public's concerns during the two years that had elapsed from the protests to the socialisation sessions (The National Alliance for Criminal Code Reform, 2021). The general scepticism towards the effectiveness of these socialisation sessions in conveying the strong public opposition to the most controversial parts of the bill concretised when the RKUHP was passed in December, and it became clear that there had been very little by way of amendments since 2019 (KUHP, 2022).

Moreover, Butt (2023) is critical of the claims that the New Criminal Code signifies a true decolonisation and democratization of its criminal law, the first two missions professed by the Code's General Elucidation, as they are followed by another two missions: adaptation and harmonization, and consolidation of criminal law. As the 2022 KUHP contains many of the provisions from the original Criminal Code, which had been an adaptation of the *Wetboek van Strafrecht*, this raises questions in regard to its commitment to a legal transformation able to encapsulate indigenous values and genuinely reflect Indonesia's post-colonial identity (Butt, 2013).

In regard to the punitiveness of the Indonesian criminal justice system towards drug offenders, despite hopes among abolitionists that the new criminal code might do away with the death penalty altogether, the code retains it, though as an alternative punishment only to be meted out as a last resort (Art. 64, Art. 98, KUHP, 2022).[7]

The 2015 draft bill stipulated that under certain circumstances, executions could be stayed for ten years after conviction. Moreover, if after ten years a prisoner had not been executed, even in the case of a rejected clemency application, their sentence would automatically be commuted to life imprisonment (ICJR, 2019). The circumstances needed for the ten-year stay were: lack of a negative public reaction, expressions of remorse by the prisoner and the possibility of their rehabilitation, and their only having played a minor role in the criminal endeavour (Berrih, 2019). The government took a step back from a potential abolitionist pathway when they deleted the automatic commutation provision from the 2019 draft (RKUHP, 2019). In regard to the ten-year 'probationary' period provision present in the final 2022 Code, Pascoe (2013) states that the 'the most likely interpretation is that *all* newly-imposed death sentences after the Revised Code comes into force will be suspended for a 10-year period, with no execution permitted until the period elapses' (p. 72). There remains uncertainty, however, on how the New Criminal Code will be implemented and whether the judges will be indeed obligated to impose the 'probationary' period for all death sentences or whether they will have discretion based on the circumstances of each case, considering that Article 100 (2) states that 'capital punishment with a probation as referred to in paragraph (1) shall be included in the court

[7] Previously, capital punishment had been a *pidana pokok,* meaning principal punishment (Art. 10, previous KUHP).

decision' (KUHP, 2022, p. 38)[8] something that should not be necessary if the 'probationary' period will be indeed mandatory (Pascoe, 2023). Furthermore, the Code allows the President to maintain significant control over the outcome, including the option to refuse commutation after the probationary period, effectively leaving the prisoner's fate in prolonged uncertainty (Pascoe, 2023). During the ten-year stretch, the only *conditio sine qua non* for commutation is good conduct; the President can convert the sentence to life imprisonment through presidential decree, after it is considered by the Supreme Court (Art 100(4), KUHP, 2022). Pascoe (2023) argues that, similarly to previous clemency decisions, the president is likely to accept the recommendation made by the Supreme Court. While this provision may instil hope in the hearts of family members who wish for their loved ones to stop living in a continual state of fear, in practice it might not constitute a drastic change to the way death sentences are handled, as the current appellate process lasts on average five years, and any clemency is still dependent on a presidential decision (KontraS, 2016). In the following paragraphs, I will expand on the problematic implications of this reform.

First, it appears that this law would not be applied retroactively, therefore excluding the 452 individuals already sentenced to death, the majority of whom for drug offences (Amnesty International, 2023; KUHP, 2022, p. 9). This is further evidenced by Art. 100(2), with the type of death sentence being included in the court judgement, therefore not after the case has been closed and the prisoner is appealing their sentence.

Secondly, as outlined by the coordinator of the Anti-Death Penalty Asia Network, Dobby Chew, 'a probationary death penalty would put inmates in this odd circumstance

[8] Translation by hukumonline.com, page 26 https://the-world-is-watching.org/wp-content/uploads/2023/02/2023-Indonesia-Penal-Code.pdf

where they have to live with the idea they need to prove themselves redeemed with the knowledge that their life would be forfeited if they don't hovering over their head. In such circumstances, can any repentance even be considered genuine by any standards?' (Llewellyn, 2022). Butt (2023) further raises the question of what constitutes a 'praiseworthy attitude' (p. 194), highlighting how the 2022 KUHP fails to specify the criteria used to judge inmates' conduct.

In the current climate of the 'war on drugs', there is a possibility that this 'probationary' death penalty might even persuade ordinarily reluctant judges to sentence someone to death, knowing the sentence could be commuted ten years later, if they feel it important to send a powerful message of uncompromising authority to the public. Pascoe (2023) offers a more optimistic perspective on the matter, stating that 'the 2023 Criminal Code will not make Indonesia an abolitionist *de jure* state, but will instead likely render the death penalty a dormant criminal punishment' (p. 67), seeing this shift of the sanction to an alternative punishment as a step towards *de facto* abolition.

Thirdly, as the President will still have the final say on all commutations, this provision will be vulnerable to political whims in the same way that executions and clemencies have in the past decades (McRae, 2017). As some presidents are more execution-prone than others, there could be a higher or lower likelihood of success; depending on the timing during a presidency — and particularly on the proximity to an election — this request might be more or less likely to be rejected, creating unacceptable arbitrariness in sentencing (Natalegawa, 2018). Considering the violent past and

authoritarian leanings of newly elected President Prabowo Subianto, the odds of receiving a commutation through the probationary scheme outlined above currently appear slim.[9]

Overall, it is hard to ignore the similarities between this final presidential decision-making stage and the clemency process which is already part of the system. Considering that President Widodo has expressly stated his unwillingness to grant clemency to people who have been convicted of drug-crimes, scepticism regarding the efficacy of such a provision appears warranted, at least at this point in time (Gusti, 2014).[10] This is especially worrisome given that the exclusion of an entire category of offenders from being granted pardon already violates the conditions for pardons and commutations, under international law, according to which they cannot be 'ineffective, unnecessarily burdensome, discriminatory in nature or applied in an arbitrary manner' (UN Human Rights Committee, 2019, p. 12). Likewise, the inability of foreigners to apply for constitutional reviews, and the precedent set in the cases of Seck Osmane, Freddy Budiman, Humphrey Jefferson Ejike Eleweke, who were executed while their clemency appeals were pending, promotes further concerns as regards to the effectiveness of this new provision (Amindoni, 2016; Budiman, Gandini, & Napitupulu, 2017; HRI, ICJR, & LBHM, 2020).

One silver lining in this newly approved criminal code is Art. 101, stating that 'if the request for clemency for a death row convict is rejected and the death penalty has not been carried out for 10 (ten) years since the clemency is refused [...] the death sentence may be changed to imprisonment for life by Presidential Decision' (p. 23). This is an

[9] Prabowo, current Ministry of Defence, and running with Jokowi's older son as his vice president, used to be a general under the Suharto regime. In his career, he has admitted to committing 'legal' kidnappings of activists, which lead to him being discharged by the military, and has been tied to several war crimes in former East Timor and Papua during his military tours (Aljazeera, 2014; Mao, 2024).

[10] This concern remans, notwithstanding the fact that at this point (early 2024), there have been no executions since 2016.

interesting provision because the ten-year lapse would ensure that a different president will be called to reconsider the clemency from the one who negated the first request (RKUHP, 2022). On paper, this could give death row inmates a modicum of respite, at least from fear of execution. However, for those who have not yet petitioned for clemency, submitting an application now could start a dangerous count-down, which, depending on the political leadership and levels of appetite for commutations amongst the public, might make those closer to the 10-year post-clemency deadline more likely to be picked for execution. This is aggravated by the fact that the commutation would not be automatic, as in the 2015 draft, but rather still subject to presidential approval, as stated in the article.

Another worrisome aspect is the codification of drug offences in the new criminal code, which further entrenches this type of offence and the harsh punishments associated with it in the criminal justice system, preventing a shift towards potential decriminalisation and more health-based approaches. In a press release addressed to the President, LBHM (2018b) stated that considerable resources will need to be expended to create new government regulations able to safeguard the right to rehabilitation under the new KUHP, something that is already guaranteed under Law No. 35/2009. Consequently, the KUHP 'will instead further perpetuate prison sentences as the primary form of punishment for people who use drugs' (LBHM, 2018b). Furthermore, as Law No. 35/2009 is what the judiciary refers to in trying drug cases, a different codification in the new Criminal Code would create a confusing legal dualism. While the government has expressed an interest in revising the Narcotic Act, an action which would have avoided this dualism, it has not discouraged the addition of narcotic legislation within the KUHP which reiterates the same provisions contained in Law No. 35/2009 (KUHP, 2022). Therefore, if the Narcotic Act were to be updated, two consequences would follow from redundant legislation: legal

practitioners would find it more complicated to prosecute and defend cases in the presence of ambiguous legislation; and, with time, a body of practices would come into existence, but would still be subject to potential arbitrariness in the absence of clear and unequivocal legislation. Lastly, this further criminalization of drug use would discourage even more users from accessing harm reduction or rehabilitation services, as the mere possession of drug paraphernalia, such as sterile syringes, might be enough to get them arrested. In turn, this will increase HIV infection rates in the territory (LBHM, 2018a; LBHM, 2018b).

While some might have hoped for a revision of the KUHP since the 2019 draft elicited such social outrage, both the draft released in summer 2022 and the final one in December 2022 still contain all the controversial legislation for which the 2019 one had been criticised, and no positive amendments in terms of drug legislation. Moreover, its criminalisation of adultery, sex outside of marriage, and even cohabitation will have considerable impact on the LGBTQ+ community, as well as on Indigenous people or Muslims who perform local ceremonies rather than legally binding ones. Its provisions against blasphemy, inciting apostasy, and insulting the president or vice president also impinge on freedom of religion and freedom of speech, and an unclear recognition of 'any living law' might give more power at the local level to Sharia laws (Human Rights Watch, 2022). In conclusion, the new Criminal Code constitutes a regressive step for a country that has strived in the past 20 years to affirm itself as a progressive democracy.

A separate, albeit relevant, point of debate is the lack of expansion of mitigating factors. Currently, mitigating factors are coded in the Guidelines No. 11/2021 'About Handling Criminal Actions of Narcotics and/or Criminal Acts of Narcotics Prosecutors'. According to these guidelines, the only mitigating elements taken into consideration are:

lack of previous convictions, cooperation during the trial process, self-reporting or prompt surrender to the police, lack of fighting or threats towards law enforcement, socio-economic difficulties, vulnerability to being coerced by someone more powerful to commit the crime, and age (both young and old). While gender is not expressly mentioned, certain judges might consider it a mitigating factor falling under the 'vulnerability category' if coupled by evidence of exploitation, in light of the literature on the different role and pathways of women committing narcotic crimes. In fact, in their 'Global Overview of Women Facing Death Penalty', the Cornell Centre on the Death Penalty Worldwide (2018) reported that 'drug traffickers employ women as low-level drug mules because they are less likely to be caught than men and do not have resources to buy and traffic drugs for their own profit, exposing them to exploitation by drug trafficking rings' (p. 12). Additionally, in the 78th session of the Committee on the Elimination of Discrimination Against Women, the various contributors highlighted how women are not only disproportionately affected by fair trial violations (e.g. being denied competent interpretation services, failure of the court to allow key witnesses to provide testimony), but are also more likely to suffer from gender-based violence at the interrogation stage in the form of sexual harassment and physical violence (Advocates for Human Rights et al., 2020).

Furthermore, it is the absence of any psychological factors which stands out among these mitigation guidelines. Interestingly enough, the only time mental illness is mentioned in the Criminal Code in relation to capital punishment is to specify that people with mental disorders can still be executed, as soon as they recover, an openly controversial statement considering the chronic and hardly curable nature of most mental disorders recognised by the DSM-5 (Diagnostic and Statistical Manual of Mental

Disorders) (Art 99(4) KUHP, 2022). Yet, this is not in breach of international law, as the latter does not prohibit the execution of individuals with mental illness insofar as they have recovered (Schabas, 1993). It does, however, contravene customary international norms of most retentionist countries, as stated in the 1985 UN Secretary General report: 'with regard to mental illness, the majority of countries reported that this precludes the possible sentencing or execution of a capital offender'.

Before moving the discussion to the practice of mandatory rehabilitation, it is worth expanding on a series of issues involving one of the mitigating factors which is already taken into consideration under Guidelines No. 11/2021: cooperation during the trial process. Offenders who become justice collaborators and offer valuable information about other people within a criminal network are still not guaranteed a reduced sentence or any real mitigation, as there are no proper guidelines defining the benefits of whistleblowing or offering procedural assistance. While officially becoming a justice collaborator is limited to a few selected offenders who meet specific requirements (with only 11 applications out of 48 being accepted during 2015-16), a judge might still decide to ignore the role of the person as justice collaborator after they have provided the information and potentially put their family and themselves in danger (Thalib, Rahman, & Semendawai, 2017).

The Guidelines No. 11/2021 are equipped with several tables meant to aid legal practitioners to tally up the different aspects of the crime, quantity of drugs, aggravating and mitigating factors, and arrive at a foreseeable conclusion regarding punishment. However, it becomes clear through the example of justice collaborators that such mechanical calculations are riddled with inconsistencies and allow for a level of arbitrariness which should not be acceptable in a court of law. Becoming a justice

collaborator might then be less beneficial to a low-level offender than practicing the 'switch'[11] directly at the time of arrest (Rumah Cemara, n.d.), giving up someone higher up in the chain of command in order to be released, as this *quid pro quo* has fewer requirements than justice collaboration, and an overall higher chance of success.

Compulsory Rehabilitation

A provision which, on the surface, could be seen as a step towards a medical and rehabilitative approach to drug use rather than a criminal one is the 'double-track system' established by the 1976 Narcotics Act. It states that 'because the treatment and rehabilitation of victims of narcotics abuse is not only the duty and responsibility of the Government but also the responsibility of society in general, it is deemed necessary to have such a rehabilitation institution. This article is intended to further guarantee coordination in efforts to control and overcome the problem of narcotics abuse, bearing in mind that this problem involves various social aspects and involves various government and private agencies functionally' (Law No. 9/1976, p. 26). According to this provision, drug users can be diverted to mandatory rehabilitation centres rather than prison, to enable them to overcome their addiction. In practice, this compulsory drug detention and rehabilitation track is not only for those convicted of drug use, but also for users reported by their families and who self-report to the authorities (Law No. 8/1981, Art. 21(4b); Law No. 35/2009 Art. 55, 103, 127; Supreme Court, 2014). However, this alternative trajectory is

[11] The 'switch' refers to the possibility some drug offenders get to give up a friend or another person in the network to avoid being arrested, therefore switching their fates. However, freedom is not always guaranteed, as at times informants are still arrested after providing information. Perhaps even more troubling are accounts of people being arrested without any piece of evidence other than a friend or acquaintance offering their name to the police (Rumah Cemara, n.d.).

riddled with controversies, touching issues of morality, ethical treatment, efficacy, and actual utility of the practice.

Before I expand on these controversies, it is worth mentioning why mandatory rehabilitation centres were only established in the 2010s when since the 1976 Narcotics Law there have been provisions enabling a double-track system. When a law is passed in Indonesia, practitioners (judges, lawyers, police officers etc.) do not automatically implement the new legislation, but rather abide by practical regulations passed on by the government explaining how to apply the law. Sometimes, in absence of a new regulation to accompany a novel law, practitioners still use previous regulations until new guidelines are provided. While the 1976 law envisioned the creation of rehabilitation centres, the practical regulation which followed it did not provide further instructions on their development or organisation; it was only when Law No. 35/2009 passed that the discussion around a rehabilitative track reignited. The Ministry of Health has strived to make rehabilitation the crown jewel of their response to drug addiction, establishing hundreds of centres all over the nation, coordinated by three different actors: BNN, MoH, and Ministry of Social Affairs (MoSA) (Lai, Fransiska, & Birgin, 2013).

The government has established around 875 treatment and rehabilitation centres, the majority of which are managed by the MoH (549), while a minority are handled by the MoSA (166) and the BNN (160), but multiple obstacles stand in the way of the efficacy of this treatment network (Suryadarma & Putri, 2018). Despite high hopes for rehabilitating hundreds of thousands of addicts every year, statistics show that in 2016 only 6% of convictions saw the defendant being led down the rehabilitation track, as judges are often unable to discriminate between drug dealers and drug users (LBHM & Reprieve, 2020). By way of comparison, in December 2017, the Correction Database System (SDP) recorded

34,438 drug users incarcerated out of 98,013 'special inmates', showcasing the failure to redirect a third of the overall category towards the rehabilitative track (Novian et al., 2018).

Allocating people in need of rehabilitation to the correct facilities is further complicated by the lack of clear guidelines to distinguish the different figures (drug couriers, occasional drug users, regular drug users, drug addicts etc.), and the overall unwillingness by some members of the judicial system to view drug users as victims themselves, often leading users to be tried and convicted as sellers, explaining the underapplication of the rehabilitation track (LBHM & Reprieve, 2020; Stoicescu & Lasco, 2019). This lack of disambiguation is reminiscent of a similar shortcoming which led to the overestimation of the number of drug addicts in Indonesia when the BNN published a report in which even a one-off use of an illegal substance was conflated with drug *addiction* (Irwanto et al., 2015).

Law No. 35/2009, in conjunction with Government Regulation No. 25/2011, criminalises a failure to report drug offences, including drug use, for which families of users can be incarcerated for up to three months (six if the user is a minor) or pay a fine of one million rupiahs (approximately 60 €) (Art. 128; Art. 134(2)). Similarly, drug users can be held liable for not self-reporting to the designated MoH or BNN facilities, encountering fines up to two million rupiahs (approximately 120 €) or six months imprisonment (Art. 134(1)). As a consequence, users are more likely to hide their consumption from their loved ones, further alienating them from their support systems; fear of being formally registered as a drug user is also likely to divert them from health services which could help them manage and reduce their use of drugs (Human Rights Watch 2007; LBHM & Reprieve, 2020). In some cases, people have reported being harassed by police officers after visiting needle syringe programmes (NSP) to obtain clean injecting equipment (Lai et al.,

2013). Moreover, since the MoH is legally bound to share their registration data with BNN according to Art. 19 of Government Regulation No. 25/2011, many fear that their engagement with these facilities will result in an arrest. Indeed, it is claimed that it is not uncommon for law enforcement to entrap drug users and even plant drugs on them to achieve higher arrest quotas and therefore increase their chances of a promotion (Lai et al., 2013).

A separate matter concerns the resources offered by these treatment facilities. Historically, harm reduction services have been mostly focused on needle and syringe programmes (NSP) with 194 sites on the territory by 2011, while other approaches like methadone maintenance treatment or antiretroviral therapy (ART) are still underdeveloped and underutilized. The concerted efforts to reduce needle-sharing among injecting drug users have been mostly aimed at preventing HIV transmission, while non-injecting drug users' lower vulnerability to this disease has left them less likely targets of harm reduction interventions; yet, the majority of drug users on the territory consume *shabu shabu* (methamphetamine), a non-injecting drug prevalently used as a stimulant to enable users to work longer hours (Lai et al., 2013; Ministry of Health, 2016; United Nations Programme on HIV/AIDS [UNAIDS], 2021). Moreover, a report by members of LBHM shows that when methamphetamine or overall stimulant users go through rehabilitation, they are often offered the same methodologies used for opioid users (Larasati, Christian, & Misero, 2017). While opioid substitution treatment (OST) through methadone and ART might be available in urban areas, the high level of decentralisation has led to inconsistent development across the country, with the more rural territories being left at a disadvantage. Additionally, it was estimated that in 2011 only 6% of injecting drug users accessed ART, and even the more popular NSPs only saw 23% of

injecting drug users (Mathers et al., 2010). Overall, the main treatments offered within rehabilitation facilities are abstinence-oriented, rather than focused on the individual and aimed at providing bespoke care (LBHM & Reprieve, 2020). Considering the current state of the art on addiction treatment and recovery, with holistic measures being seen as the gold-standard to increase a person's overall well-being long-term rather than targeting short-term unsustainable goals, abstinence-based approaches are mostly a recipe for relapse.

In regard to standards of care, these compulsory rehabilitation centres, managed and coordinated by different government bodies, lack a shared principle of what it means to provide addiction care and what measures should be operated. In 2012, the MoH and the MoSA developed guidelines to render the standard of care consistent; however, a report by LBHM found that in practice the rehabilitation methods differed between these two organisations (Larasati et al., 2017). The BNN created a different set of guidelines, but with 30 of their new drug rehabilitation facilities being located inside police and military training academies, as well as an additional 60 sites being inside prisons, Stoicescu (2015) says 'it is hard to imagine how the substandard, overcrowded conditions and limited health facilities of existing prisons in Indonesia can address the nation's drug woes'.

Aside from government-run clinics, centres can also be situated in hospitals or be privately operated, tapping into different approaches and belief systems on how to better 'cure' drug addiction. The private sector suffers from many of the same afflictions as the government-run facilities, lacking guidelines setting a shared standard of care, using unscientific methods, with poor oversight, and targeting abstinence as the main goal. Ignoring decades of scientific evidence in the field of drug addiction treatment, some sites in fact prefer religious and spiritual methods based on 'magic, prayer, beatings and shackling drug users in cages with a ball and chain' (Larasati et al., 2017; Stoicescu, 2015).

The very foundation of compulsory rehabilitation itself has attracted the opposition of international entities, as it denies a critical element of medical treatment: consent. This objection has been compounded by reports of 'non-consensual experimental treatment, torture, ill-treatments', as well as 'long hours of physically strenuous exercise, physical and verbal abuse, beatings, solitary confinement' (United Nations High Commissioner for Human Rights, 2015, p. 12). Yet, as the international outcry rises, the more questionable rehabilitative practices come to the surface. Torture is technically not illegal under Indonesia's domestic law, despite its ratification of the Convention Against Torture (CAT) in 1998, although not of the Optional Protocol which accompanied it (HRI, ICJR, & LBHM, 2020; United Nations Treaties Collection, 2022). Forced rehabilitation, however, does go against the Outcome Document as it undermines several of the UN Sustainable Development Goals (SDGs) (e.g., SDG1 'no poverty', SDG10 'reduced inequalities'), and especially ignores the aims of SDG3 on 'good health and well-being' (LBHM & Reprieve, 2020).

As an aside, it is worth mentioning that the governmental estimates boast extremely high numbers of individuals needing rehabilitative treatments; President Widodo claimed that 4.5 million Indonesians are in need of rehabilitation, while a further 1.2 million are *beyond* rehabilitation (Endi, 2015). These numbers were derived from studies conducted by the BNN (2008, 2011), which reported a 2.6% drug use incidence in the population, as well as 50 daily drug-related casualties. We now know that these numbers were wildly inaccurate, as a study showed that only a fraction of drug users identified by the BNN were addicted to a degree that would warrant rehabilitation. For the majority, their occasional – or past – drug consumption was not a cause for concern (Irwanto et al., 2015). However, with the rehabilitative fervour hinging on flawed

estimates, Widodo pledged to treat 100,000 individuals by 2016, and to double these numbers every year. The more modest outcome showed 1,523 people receiving therapy in 2017 according to the BNN, and while the latter's budget was tripled for the following year, the funds dispensed to the MoSA (an entity which takes care of the underserved in society, and tackles issues of poverty and marginalization) for the same goal were decreased (Kapoor, 2016; Nathalia, 2017). As the BNN called for the opening of more centres by 2018, estimates by the MoH reported the total number of problematic injecting drug users to be approximately 74,000, well below the figures targeted by the government (Stoicescu, 2015).

In order to present a more context-specific overview of the subject, it is helpful to focus on a study that clearly exemplifies what the BNN failed to address when it presented the outlandish estimates upon which the government subsequently based its mandatory rehabilitation framework. The BNN classified as a problematic drug addict any individual who had consumed any type of narcotic substance during a very broad timeframe, without recording any other indicator which would act as a more accurate proxy for severe addiction. Furthermore, addiction was not defined according to the standardised criteria used internationally, and they failed to correctly differentiate different kinds of drugs and usage patterns, which would have granted a much clearer picture of the actual problematic usage within the country (Irwanto et al., 2015). In contrast, a qualitative study by Nasir, Rosenthal and Moore (2011) analysed the pathways and usage habits of occasional and regular drug users in the Makassar region, and specifically in the *lorong* (urban slums area). Their findings highlight that while both groups had been subjected to high exposure to drugs in the *lorong* and had started out of 'curiosity, seeking pleasure as well as pursuing the status of *rewa* and *gaul*' (concepts akin to masculinity and social status), they differed

on several crucial features. Occasional drug users budgeted only few resources to purchasing drugs, were selective in choosing with whom to use them, and only consumed specific substances which they identified as *narkoba biasa* (soft drugs). Regular users allocated more resources to acquiring drugs and were more enmeshed within the 'drug scene of the *lorong*'. While they also stayed away from what they perceived to be 'hard drugs' like *putaw* (heroin), they did consume different types of substances and more frequently than occasional users (at least over twice a week), with drug consumption becoming a habitual part of their lives. Despite the more intense use, even regular users managed to function and indicated that 'I'm totally different from *putaw* addicts. I never touch *putaw* and I know *putaw* is only suitable for those unemployed. Unlike those addicts I prioritise my job and my family. Unlike them, I'm not involved in crime…' (p. 468) and that 'very few people can use *putaw* and still manage to keep working' (p. 467).

The government appears to see no distinction between the two categories of users represented in this study and the hard-hitting *putaw* users these participants mentioned, despite there being a clear difference in functioning and societal integration. While some of the drugs consumed even by occasional users – such as *shabu shabu* or *koplo* (benzodiazepine) – are detrimental to one's health, forced rehabilitation is likely to cause a higher degree of damage to these people's lives than occasional drug use, stigmatising them and their families, taking away their jobs, and at times plunging their loved ones into poverty.

In conclusion, while both the inefficacy and relatively low intake numbers of the facilities are not surprising, the question arises as to the performative function of this double-track system, appeasing those who request a more merciful approach to easing drug addiction, while at the same time expending no efforts to decrease punishments for drug

offences on the legislative front. On this point, Stoicescu (2015) stated that current drug policies in Indonesia are 'intended to recast Widodo as a strongman who fights for the interests of the ordinary citizens, rather than acting as a puppet of Indonesia's long-ruling elite'.

Stoicescu (2015) reminds us that several other countries in the Southeast Asian region (e.g. Malaysia, Cambodia, Philippines, Vietnam) proffer similar evidence on the discriminatory and stigmatizing nature of mandatory rehabilitation facilities, as well as their regular breaching of human rights, and their role in increasing HIV risk. None of the evidence, coming from either within or outside Indonesia, has led to the closure of forced rehabilitation centres. Yet, while some might worry about the lack of effective alternatives if these facilities were to be closed, it is important to highlight that Indonesia already houses local organizations offering a more humane and *effective* approach to rehabilitation, such as voluntary and community based Rumah Cemara and Rumah Singgah Peka (Stoicescu, 2015).

The Future: Campaigns for Decriminalisation

The new Criminal Code is not qualitatively different from the current Narcotic Act, making no distinctions between 'soft' (*narkoba biasa*) and 'hard' drugs (*narkoba berat*), in the same way that substances are oftentimes categorised in the media. Interviews with local drug users have revealed that, informally, people are aware of a ranking of drugs, depending on their dangerousness and their degree of disruption of everyday functioning, with cannabis being at the bottom of the ladder, and heroin (*putaw*) occupying the highest rung. Drugs such as *koplo* (benzodiazepine), *inex* (ecstasy) and *shabu shabu* (methamphetamine) instead are seen to be somewhere near the middle, only to be

consumed in moderation (Nasir, Rosenthal, & Moore, 2011). Still, the only line of demarcation between different types of drugs provided by Law No. 35/2009 is not based on how *biasa* (soft) or *berat* (hard) they are, but rather according to a three-tier system based on presumed danger levels.

Category I contains all substances that cannot be used for any reason but for research, therefore excluding also medical treatment, and of course personal use. Category II narcotics can be used as medication, although only as last therapeutic options, while the substances classified as Category III are widely used for medical treatment; both can be used for research, but none for recreational consumption (Law No. 35/2009, Art 6). In practice, most substances consumed by drug users fall under Category I, considered among the most dangerous and addictive, even when no research has been conducted on them to assess this. However, it is easier for law enforcement to declare a substance as illegal and subject to criminal sanctions when they are not able to control its production, import and export. An example and current subject of heated debates is *kratom* and the BNN's efforts to classify it as a Category I drug.

Kratom is a substance obtained from the leaves of the *Mitragyna speciosa* tree, which naturally grows in Southeast Asia; users claim it decreases pain, helps them manage mental health problems, and can have both sedative and stimulant-like effects depending on the dosage. Research on Kratom is extremely scarce, therefore the short- as well as long-term effects are unknown. In the meantime, it has not been approved by the FDA in the US for safe consumption, even for medical use (National Institute on Drug Abuse, n.d.; Veltri & Grundmann, 2019). Kratom has traditionally been used in Indonesia, Malaysia and Thailand for over 150 years, mostly as a relaxer when steeped into tea, but also to alleviate opioid withdrawal symptoms (Brown, Lund, & Murch, 2017). The legal status of this

substance has been at the centre of several disputes, with the BNN firmly campaigning for its classification as a Category I drug. Indeed, the Head of the BNN Narcotics Laboratory Centre, Mufti Djusnir stated that the substance would be banned in 2022, after a five-year transition period from its classification as a Category I drug in 2017, citing research conducted by his own institution reporting deaths due to kratom (Andilala, 2019).

As Indonesia is the main supplier of kratom in the world (95% of total supply), a ban would damage its economy (Kent, 2021). The Department of Industry and Trade itself exports it in large quantities to the Netherlands from West Kalimantan. Moreover, the Head of Foreign Trade Development Eko Darmawansyah said in 2021 that, 'this proves that indeed kratom is a commodity with very high economic value'. This view was shared by West Kalimantan Governor Sutarmidji, who believes kratom could prove a profitable product for his region and who stated he would contact President Widodo to make a case for kratom's decriminalisation on the basis of its difference from marijuana (Pinandhita, 2021). Supporters of this distinction use the biological affiliation of the *Mitragyna speciosa* tree to the coffee plants' family as evidence that it should be considered separately from the more notorious plant-based drug, marijuana, and rather more similarly to caffeine itself. The BNN however stated that while that might be true at lower quantities, 'at higher doses, between 5-15 milligrams [it] gives symptoms like opiates compounds, namely analgesics and sedation, so they are very different' and that 'if it is continuously used, kratom will cause symptoms of addiction, respiratory depression and even death' (Andalila, 2019). Since knowledge of the potential benefits and harms of this substance is limited, more research is needed. Though scholars are trying to convince authorities to conduct studies on the substance before criminalising it, and local businesses – especially in the Kalimantan region – are very keen not to have this considerable source of revenue

taken away from them, the BNN seems determined to outlaw it. While currently it remains legal after it was reclassified in 2020 to allow for its production and commercialisation, this is simply due to the deadline for its ban being postponed until 2024 (Kent, 2021).

Even more controversial is the debate surrounding the potential for marijuana to be decriminalised. When in December 2020 the United Nations Commission on Narcotic Drugs declassified marijuana so that it was no longer in Schedule IV of the 1961 Convention, discussions ensued in Indonesia on its legalisation for medical purposes (United Nations Commission on Narcotic Drugs [UNCND], 2020). This was buttressed at the time by a judicial review filed by three Indonesian women whose children suffer from cerebral palsy, asking for access to marijuana to ease their children's pain; the motion was also supported by the ICJR, LBHM, IJRS and the Bali Health Foundation Yakeba. While the court rejected the review[12] by upholding the constitutionality of Law No. 35/2009 and the categorisation of marijuana as one of the most harmful drugs on the market, it also claimed that there was not enough research on the substance to warrant its legalisation. Subsequently, it called for studies to be conducted, stating 'the court needs to emphasise that the government [should] immediately follow up [conducting research]… The results of which can be used to determine policies, including in this case the possibility of changing the law' (Judge Suhartoyo, in Lamb & Widianto, 2022). Speaker of the House Sufmi Dasco Ahman weighed in on the matter, exhorting the commission already working on reforming Law No. 35/2009 to take the issue into consideration (Lamb & Widianto, 2022), as well as Vice President Maruf Amin who urged the Islamic organization MUI

[12] See case 106/PUU-XVIII/2020

(Indonesia Ulema Council) to work on a formal ruling (*fatwa*) for medical marijuana, despite its not being legally binding (Jakarta Globe, 2022).

Cannabis currently falls under Category I, along with cocaine, methamphetamine, and heroin among other substances, being described as a drug with high addiction potential which cannot be used for either personal or medical use, but only for research. The caveat, however, is that according to Art. 8(2) of the Narcotic Act, only government institutions or private institutions *directly instructed* by the government can conduct research on narcotic substances, as it states that 'in a limited amount, Narcotics in Group I can be used for developing science and technology and diagnostic reagents, as laboratory reagents with the approval of the Minster of Health based on the recommendation from the Head of the Food and Drug Supervisory Agency' (p. 7). For its uses to be expanded for the medical field, the law would need to be amended, and marijuana would need to be moved to a different category. However, it is important to highlight that Law No. 35/2009 does not include per se the drugs' classification, and all that would be needed to change the categorization would be for the Indonesian Ministry of Health to move marijuana to a different category (Gunawan Widjaja, 2021).

While ruling against its decriminalisation for medical uses, the deciding bodies refused to take into consideration studies on the medicinal purposes of marijuana coming from other countries, and cited, in their decision, research conducted within the Indonesian government itself, as proof that Indonesian marijuana would cause more harm than benefits if used medically. This purported evidence of a heightened dangerousness of Indonesian marijuana had been initially reported by the BNN during a preparatory meeting to respond to the World Health Organisation's drug addiction expert committee (LBHM, 2022). However, the data from this study was never made public and in 2020

LBHM petitioned the government to release the information. The petition was rejected and on August 3rd, 2022 LBHM sought discussions with the BNN, the INP and the Indonesian MoH, to ask why the information had not been released. The results from this hearing were later released on the 22nd of the same month and report, 'The decision by the KIP [Central Information Commission] RI [Republic of Indonesia] Board of Commissioners stated that the parties in this case, the Indonesian National Narcotics Agency, the Indonesian National Police, and the Indonesian Ministry of Health had never conducted research and/or received research related to the content of narcotic types of marijuana so they could not provide documents and/or request information' (LBHM, 2022). In conclusion, the agencies admitted that they were not in possession of any data, and that no research had been conducted to support the claims on which the rejection of the original proposal had hinged.

Legalising cannabis would not only provide relief for people suffering from chronic pain, like the plaintiffs in the 2020 case, but would also have a twofold positive impact on Indonesia's economy. First, it would generate sizeable capital in tax revenue, as exemplified by the experiences of countries that have legalized it. Secondly, it would decrease the expenditure of resources needed to arrest and prosecute marijuana users (Kilmer et al., 2010; Mishan, 2001; Ogrodnik, et al., 2015; Todd, 2018). On a purely commercial level, legalizing marijuana can help boost a country's economy. According to the 'Global Cannabis Report' by Prohibition Partners (2019), 'the global cannabis market is forecast to be valued at $103.9 billions by 2024' and that by the same year 'the medical cannabis market ($62.7 billion) will be worth more than the recreational market ($41.2 billion)' (p. 2).[13]

[13] Amounts in US dollars.

Despite the clear economic potential, not only has the Indonesian government so far shied away from seriously considering decriminalisation of marijuana, but it has recently proposed new legislation which would further hit its economy. A new Draft Bill on the Prohibition of Alcoholic Beverages (*RUU Minol*) contains provisions which criminalise alcohol consumption, with punishments from a minimum of three months and up to two years imprisonment or a fine between 10 and 50 million Indonesian Rupiahs (approximately 615 to 3,000 €) (Art. 20, *RUU Minol*).

Similar to the legislation prohibiting drug usage, this draft divides alcoholic drinks into classes, and forbids the consumption of the different categories of beverages depending on their ethanol-content level; Drinks in class A contain a 1-5% ethanal ratio, those in class B consist of 5-20% while those in class C are comprised of 20-55% ethanol (Art 4(1)). The prohibition is also extended to 'traditional alcoholic drinks, and mixed or blended alcoholic beverages' (Art. 4(2)) and it is not limited to customers, but also criminalises producers, sanctioned in Art. 18 Chapter VI to a maximum of 10 years imprisonment and or a fine of one billion Indonesian Rupiahs (approximately 61,400 €). While it is clear that this provision was created to cater to the Muslim majority of the population, as one of the proponents of the bill, Illiza Sa'adudding Djamal of the United Development Party (PPP) implied by citing how the ban was 'a mandate of the 1945 constitution and religious teachings' and that 'the bill aims to protect the public from negative impacts, create order, and peace in society from alcohol drinkers' (CNN Indonesia, 2020; Indonesia Expat, 2020), it would still land a significant blow to the economic sector. ICJR Executive Director Erasmus Napitulu cautioned against over-criminalisation, as it would add an ulterior strain to an already over-stretched criminal

justice system, since resources would need to be devoted to policing production, use, sale, import and export of alcoholic beverages (CNN, Indonesia 2020).

Conclusion

In this chapter, I introduced the past, present and the likely future relevant legislation governing drug policy in Indonesia, as well as the decriminalisation efforts that have recently taken place within the country, and their outcomes. Moreover, I have suggested that the forced rehabilitation schemes developed by the government are a faulty double-track system, and singled out the weaknesses which erode their efficacy, from lack of standardised care and evidence-based treatments to the bloated estimates of individuals in need of rehabilitation, which skew public opinion as well as supply-demand dynamics. This chapter has aimed specifically to contextualise the different aspects of drug control and criminal justice policy and practice on the territory, including reform efforts and recent debates. Now that I have thoroughly introduced the Indonesian context and explained how the highly punitive climate towards drug offences persists supported by the 'war on drugs' narrative where harsh punishments are believed to help to decrease drug crimes, in the next chapter I will consider the theoretical framework assumed to be the base for criminal decision-making: rational choice theory.

2. Theoretical Framework

Introduction

Berman (2008) states that punishment stands in need of justification, and especially so when such punishment is objectionable, as it is the case with long-term incarceration. In order to provide a justification, scholars have subscribed to theories of punishment, which are 'moral *claims* as to what justifies the practice of punishment – claims as to why, morally, it *should* or *may* be used' (Hart, 2008, p.72); nowadays, sanctions step out of the realm of mere infliction of pain aimed at rebalancing the morality of a community by the community, and instead constitute a governmental practice which deliberately infringes an individual's rights as a consequence of their offence (Kramer, 2011; Steiker, 2005). Historically, we have seen two main rationales used to justify punishments. The first is retributivism, based on a Kantian principle of 'alikeness' between harm caused and punishment, translating to the *lex talonis* of an-eye-for-an-eye and a 'just desert' standpoint reminiscent of Dante's '*contrappasso*'. Here, for instance, the state justifies stripping a drug courier of their freedom as permissible and deserved in virtue of the harm they may have caused to others through the dissemination of illegal substances (Berman, 2008; Yost, 2019). The second rationale is deterrence-based and is aimed at the discouragement of future offenders through the punishment of those who have been arrested and convicted from a purely utilitarian standpoint.

Currently, Indonesian legislation invokes another rationale to justify the high punitiveness associated with drug offending, beyond deterrence (see Chapter One): rehabilitation. Indeed, according to Law No. 12/1995 on Corrections (Republic of

Indonesia, 1995), incarceration does not have the sole objective of deterring potential future offenders or deterring those who are incarcerated,[14] but also to reintegrate them, as stated in Art. 1:

> The Correctional System is an arrangement regarding the direction and boundaries as well as the method of fostering Correctional Inmates based on Pancasila which is carried out in an integrated manner between the coaches, those who are fostered, and the community to improve the quality of Correctional Inmates so that they are aware of their mistakes, improve themselves, and do not repeat criminal acts so that they can be accepted by the community, can play an active role in development and can live normally as good and responsible citizen.

Yet, as thoroughly detailed in the previous chapter, rehabilitative aims are often set aside by a system that prioritises harsh punishments over reintegration from a practical standpoint. The approach the Indonesian government has consistently proposed in dealing with drug offending – also as part of wider regional and international agendas – has promoted punishment, and specifically severe punishment, as its key agenda in the fight against the drug trade.

This approach is steeped in the utilitarian ideals which guide deterrence theory, and which find its roots in a wider perspective, that of rational choice. In the current chapter, I will explain how rational choice theory (RCT) appears to be the most relevant when studying the Indonesian authorities' response to drug offending, and the implications on both offender behaviour and policy. For the same reason, even when discussing alternative approaches, I chose to focus on

[14] Deterrence at the individual level is defined at 'specific deterrence' and is caused by the infliction of a sanction directly onto the offender, therefore acting in the present in an incapacitative manner rather than in a future-oriented and preventative capacity. In addition to these conceptualisations of deterrence, some scholars also attribute a 'symbolic' role to the presence of certain sanctions in a country's criminal code, often used in discussions regarding capital punishment in *de-facto* abolitionist countries. The assumption is that retention of a punishment in a country's criminal code convey the seriousness of the criminal act to the population, as well as the determination of the government to eradicate it (Hood & Hoyle 2015).

theories based on human decision-making. By default, this leads to the exclusion of theories such as labelling theory, strain theory, conflict theory, structural Marxist perspectives, etc., as they veer towards determinism; incorporating deterministic theories would render any discussion on human decision-making moot.

This thesis endeavours to illuminate the real-life decision-making processes which brought Indonesian individuals to commit drug offences and compare such processes to those assumed by the Indonesian government. I start by introducing classical RCT, its historical origins, the assumptions underpinning it, and its key concepts.

Classical Rational Choice Theory

Classical RCT is rooted in classical criminology, following Bentham's ideas of pain-avoidance and pleasure-seeking ([1789], 1996), as well as Beccaria's ([1764], 1963) principles of certainty, severity, and celerity of punishment, in the wake of Locke and Hume's utilitarian beliefs (Hayward, 2007).

After being overshadowed in the first half of the twentieth century by 'dispositional theories' such as those put forward by Sutherland (1947) or Gottfredson and Hirschi (1990), focused on individual traits as causes of crimes, RCT has seen its renaissance in the second half, when it merged with other disciplines, giving way to neoclassical theories. Indeed, classical RCT has been heavily influenced by economic theorists, such as Becker, (1968), who proposed ideas such as the 'economic theory of expected utility maximisation'. According to this theory – and the main assumption behind classical RCT – individuals, seen as all-knowing and having an infinite computational time, when confronted with a

decision, are capable of associating expected values to every possible outcome, and will choose the one which maximises the expected utility, based on their preferences (Becker, 1968; Mongin, 1997). From this perspective, 'the rational actor is a Bayesian maximiser in the truest sense with "unlimited cognitive abilities" reaching "mythical hero" status in terms of mathematical prowess' (Selten, 2001, p. 14).

As explained by Ken Pease (2006), in a more contemporary understanding of the theory, 'the starting point of RCT is that offenders seek advantage to themselves by their criminal behaviour. This entails making decisions among alternatives. These decisions are rational within the constraints of time, ability and the availability of relevant information' (2006, p. 399). This definition is a perfect springboard to highlight why classical RCT is of considerable relevance within the context of the current study, as it describes the beliefs held by Indonesian authorities which foster the present state of over-punitiveness of drug offending. By placing all its bets on severity of punishment in the hope of decreasing drug-related crime, the Indonesian government reveals its view of the potential drug offender as a mythical Bayesian hero, equipped with an uber-rational capacity to choose whether or not to commit a drug crime. However, it has failed to consider the heterogenous nature of the individuals it seeks to deter, as well as the different constraints which individual-level choices are limited by.

Scholars, including rational choice theorists, have consistently advocated for a conceptualisation of the theory – and connected policies – which do not rigidly view the individual as perfectly rational or unlimited in their ability to acquire and process knowledge. As Pratt (2008) states, 'although academics

appreciate the complexity of RCT in its contemporary form, policy makers generally do not' (p. 43–44). Herein lies the crux of this thesis, detangling real life decision-making amongst Indonesian drug offenders from the idealised version the government uses to promote legislation which succeeds in delivering harsh punishment but fails to achieve the goals it set: deterrence and rehabilitation.

The second assumption on which classical RCT lies is the goal-oriented nature of human behaviour whenever faced with a choice. Cornish and Clark (2008), two of the biggest proponents of rational choice within the field of crime prevention,[15] describe criminal behaviour as: purposive, rational, and crime specific. According to RCT, criminal engagement is therefore a purposeful decision to commit an illegal act to reach a goal, for instance acquiring material goods, consuming drugs to feel 'high', or even to chase a thrill. As Katz (1988) argues, the benefits of criminal engagement need not be material, and can be due to thrill-seeking. Yet, by relying on incarceration as the main form of punishment for drug offenders, Indonesian authorities are only taking into consideration a facet of what constitutes a cost to the individual, altogether ignoring informal sanctions (social costs), as I will argue more in detail further in this chapter.

Lastly, RCT assumes that any choice to offend is preceded by a decision-making process in which the rational actor weighs the risks and benefits of engaging in the criminal act, associates expected values with every possible outcome, and decides to follow through with the course of action that has the highest expected utility, therefore maximising benefits, and minimising costs

[15] Situational Crime Prevention (SCP) is an approach developed by Clarke (1980), who argues that criminal acts can be prevented by changing environmental elements in ways which make the crime more costly or decrease its benefits, therefore swaying the rational calculus towards deterrence.

(Becker, 1968). This cost-benefit analysis is one of the key concepts underlying RCT, relying on rational actors who are infinitely knowledgeable about all possible outcomes (e.g. consequences of engaging in drug crimes), have an accurate risk assessment of their chances of being arrested, convicted if arrested, and sentenced to prison if convicted, and can take into consideration other variables (e.g. potential for bribery, presence of undercover police officers, drugs amounts triggering harsher sanctions etc.) to achieve perfect utility maximisation.

It is necessary to address the critiques of classical RCT, as well as the limitations which are inherent in its formulation as a theory of expected utility maximisation. The first criticism is its overemphasis on rationality. Literature on the subject from both the disciplines of economic psychology and behavioural economics has consistently countered such a view of human decision-making, showing how the behaviour of real individuals diverges from this model (Altman, 2015; Gigerenzer, 2000; Kahneman & Tversky, 1979; Kirchler, 2007; Tunnell, 1990; Weigel, Hessing, & Elffers 1987). Secondly, RCT ignores structural influences, such as environmental and societal factors, and the dynamic nature of criminal decision-making, as will be further addressed below. As concisely stated by Rees and Winfree (2017), 'the absolute parsimony of the rational choice equation is appealing. However, the real-world complexities of the social and decision-making environment sometimes cause behavioural preferences that lead to what might appear as objectively irrational outcomes' (p. 277). More recently, Loughran and colleagues (2016) argued that while RCT does fit the criteria to be a considered a general theory of crime, scholars need to ensure that 'their empirical models are

faithful to the complexity of rational choice theory and that they include the full set of incentives and disincentives' (p. 107).

Within the criminological field, RCT has been applied to understand offender decision-making in the hope of developing crime prevention strategies. For instance, Situational Crime Prevention (SCP) (Clarke, 1980) uses rational choice principles to alter environmental factors in order to influence offender decision-making. A classic example is the decision by local authorities to augment the luminosity of public spaces at night to increase the risks in the decisional calculus, and therefore deter potential offenders. Along with neoclassical criminology, SCP belongs to the branch of criminological theories which arose from the shift towards administrative criminology in the 1970s, ignoring the 'root causes' of crime while focusing on informing policy (Mayhew, 2016; Young, 1994).

Within the Indonesian context, prevention strategies steeped in RCT, relying almost entirely on a presumed deterrent effect based on sanction severity, have not been effective in curbing drug crime, as reported in the Introduction and Chapter One. I propose then to move beyond such a strict conceptualisation of RCT, to pursue a truer understanding of criminal decision making amongst Indonesian drug offenders.

Before proceeding with the following section on more modern conceptualisations of the theory, which have integrated perspectives from other disciplines, as well as other theories, I would like to take note of a phenomenon that appears to have occurred throughout the development of rational choice perspectives. As RCT has had a considerable number of detractors and critics, newer and modernised forms of the theory have often been built on said criticism,

whereas theory and critique have been bound together in what Kelman (1998) describes as 'rhetoric duet' or 'ritualised dance'. This 'dance' will appear more clearly when discussing some of the theories which I have elected as primary lenses through which to examine the real-life behaviour of Indonesian drug offenders.

Modern Conceptualisations of RCT: Towards Reasoned Choice

To understand the decisional processes of the interviewees, I outline how scholars in different fields have proposed expansions of RCT, able to breach the limited confines of its classical conceptualisation to encompass several factors which have been found to influence human decision making.

Integrating Other Theories

Modern RCT has been porous to other disciplines and theoretical frameworks. An example which is relevant to the current scholarly endeavour is given by how Routine Activity Theory (RAT) embraces RCT, while also considering environmental factors and overall variables extraneous to the individual. According to RAT, crimes occur when a motivated offender encounters a suitable target in absence of capable guardians. RAT assumes that any individual can commit an offence given the right set of circumstances, and that the rational-choice calculus will take into consideration the aforementioned variables to reach either an offending outcome or a non-offending one (Cohen & Felson, 1979). This theory will be of particular interest in Chapter Four when I will discuss potential overlap and similarities between activities our participants normally carried out for their employment and drug offending.

Another relevant theory which does not deny rational choice, but also focuses on broader personal, interpersonal, and societal factors is control theory. Proposed by Hirschi (1969), social control theory sees an individual's bonds to society as crucial in deterring offending behaviour. As this study inquires about informal sanctions and informal benefits connected to drug offending, I will utilise aspects of control theory to study the impact several societal and interpersonal factors might have had on our participants' decision-making processes. Concerning the first factor, named 'attachment', Hirschi (1969) argues that individuals will be deterred from committing crimes in fear that the people they care about will disapprove of them and of their actions. Hence, we investigated how important the participants had deemed the loss of respect of a loved one while they had made the decision to offend. Likewise, by asking them whether they had worried about being suspended from their job during the deliberation, we drew from the concept of 'commitment', which defines the importance of preserving one's personal capital. While I do not engage as thoroughly with the idea of 'involvement', which stands for involvement in conventional activities, through the open-ended questions related to their background, it will be possible to analyse how 'involved' the interviewees had been in their daily lives within their community. Lastly, the responses to our questions on the consequences they had expected to encounter while choosing whether to offend, will illuminate, at least partly, their 'beliefs' regarding the drug legislation and the punitiveness of the criminal justice system (Schreck & Hirschi, 2009).

New conceptualisations of RCT have also drawn from game theory. This will be of particular interest for the discussion in Chapter Five dedicated formal

sanctions, as game theory takes into consideration the dynamic and interactionist nature of decision-making, therefore including law enforcement's role in criminal decisional processes. Within the game theory framework, there are some key elements which are necessary to note: the theory assumes that actors (players) have expendable resources to reach their goals; in order to reach these goals (preferences), they have two or more alternatives to choose from; individuals can differ in their risk preferences, going from risk aversion, to risk neutrality, to risk seekingness; there is a strategic interdependence between the different actors at play (specifically, offenders and law enforcement). Game theory is still based on RCT as players maximise their expected utilities, yet it takes into consideration that such maximisation does not happen in a vacuum, but rather in a society in which the goals of offenders and law enforcement officers occupy the opposite ends of a spectrum. Indeed, it goes beyond classical RCT as one of the elements of Nash's equilibrium (1951), one of the most well-known decision rules, holds that players take into consideration other players' strategies, and adjust their expected utility accordingly. Actors in game theory are also assumed to 'hold beliefs about preferences, resources, choice alternatives, and beliefs of the other actors' (Rauhut, 2017 p. 143). This adds a degree of subjectivity and dynamism, as beliefs can change and be updated given past experiences (Loughran et al., 2013), going counter to classical RCT and moving towards the realm of perceptual deterrence, which takes into consideration the presence of preferences[16] amongst other factors.

[16] For example, preferences can be risk-related, with some individuals being more risk-averse or risk-tolerant, or they can be related to the rewards offered by the criminal activity.

Moreover, game theory does not assume perfect rationality, but rather accounts for 'bounded rationality', a concept developed by Simon (1955) stating that humans are limited in their decision-making abilities by individual, environmental and computational constraints, leading them to accept a 'good enough' choice rather than a perfect one. Regarding this assumption of rationality, Rauhut (2017) states that 'these players should be modelled to be less calculating, less adaptive, and less farsighted but more prosocial, more other-regarding, and more sensitive to others' mistakes than what is assumed by classical rational choice theory' (p. 160).

Of particular interest for the current study is a niche part of game theory, called 'inspection games' (Tsebelis, 1990). Inspection games assume that offenders and police officers (control agents) are diametrically opposed in their goals, and that if each party were to use a 'pure' strategy, either always offending or always inspecting, it would be detrimental for both in the long run. Instead, by using a mixed strategy, deciding each time whether to offend or not, or whether to inspect or not, each player can adapt their behaviour to that of the other players. The offender will then only commit a crime when they think they will not be inspected, therefore evading arrest, and law enforcement will only inspect when they believe crime is going to occur or has occurred, therefore raising their chances of a fruitful inspection.

Within the Indonesian context, this is an interesting framework, due to the high levels of corruption throughout the criminal justice system. In fact, Butt (2012) states that 'for the most part, police prosecutors and courts – the so-called justice-sector mafia (mafia *peradilan)* – have perpetuated the corrupt practices of

officials by themselves taking bribes in return for dropping investigations, presenting slopping prosecutions and issuing light sentences or acquittals' (p. 1). Indeed, while in an inspection game the goals and payoffs are assumed to be in conflict, police officers do profit from crime. If all crime were to be stopped in their area, they would not be able to access this extra source of income. However, there is one finding from game theory which is of particular relevance to the current hypothesis of an overly punitive system's inability to decrease drug crimes: 'the dynamics show that there is a sharp change in behaviours when punishment and inspections incentives are changed. After the strong behavioural change, crime and inspection rates do not converge toward predictions over time, but rather remain stable' (Rauhut, 2017, p. 157). Moreover, game theory shows that while inspection incentives appear to decrease crime, sanction severity – a disincentive on the criminal activity – does not affect crime per se, but rather it renders inspectors laxer, as they rely on the severity of the sanction to act as a deterrent. In turn, laxer inspectors lead to more crime, therefore highlighting the failing strategy of betting all on punishment. In summary, according to game theory, harsher punishments have the opposite effect on crime trends than what is hoped by the Indonesian government, reinforcing a positive loop of increasing criminal acts. However, it is also crucial to consider how game theory models often rely on simplified assumptions about enforcement decision-making, such as the independence of inspectors and the absence of external incentives, therefore decreasing their ecological validity. These assumptions are less applicable in Indonesia, where law enforcement operates within a deeply entrenched system of corruption and hierarchical control. As discussed earlier, enforcement is not

merely a matter of principle or policy but is frequently influenced by opportunities for personal financial gain, such as bribes. In this environment, harsher punishments may not discourage enforcement activity as the models predict. Instead, they might increase the value of bribes that officers extract, creating an alternative incentive to maintain or even increase enforcement efforts. While game theory offers valuable insights into the interplay between enforcement and punishment, when using it to reflect on my findings, I will contextualise it within Indonesia's systemic challenges, including corrupt practices which complicate the dynamics of the deterrence mechanism.

Integrating Other Disciplines

Modern RCT has drawn from fields such as neuroscience, sociology, and psychology to adjust its assumptions and attempt to understand the irregularities which appear to be omnipresent within the realm of human decision-making. The major contribution from these disciplines has been to increase the number of factors taken into consideration during the decisional process, as well as to account for many of the instances in which such a process appears to be irrational. The following sections detail these contributions, starting from the impact of time on decision-making, both in regard to the timeframe used to make the decision to offend and the time lapsing from decision-making to the punishment.

Decisional Time Frame.

According to classical RCT, actors have an infinite time horizon to weigh their options and choose the one with highest expected utility. In real-life decision-

making, one of the most pressing constraints is time. Within the context of drug offending, a recruiter might set a decisional timeframe to hear back from the potential recruit; even without a fixed deadline, when faced with the choice to offend, individuals usually only allot a determinate amount of time to decision-making. This is part of their 'stopping rule', which dictates the amount of resources a person is willing to spend on the decisional process, including the time to gather information[17] on the risks and benefits of the activity. The 'stopping rule' is one of the constraints which limits an individual's ability to perfectly assess their choice, therefore turning their rationality into 'bounded rationality' (Simon, 1955). This concept will be crucial when analysing how long our interviewees had taken to make the decision to offend.

In terms of time lapsing from criminal decision-making to punishment, already in 1764, Beccaria had deemed celerity of punishment as one of the three core characteristics of punishment, together with certainty and severity, stating that for a sanction to have any deterrent effect, punishment must be swift. The reality of engaging in criminal activity however involves intertemporal choices, defined as the 'trade-off between costs and benefits that occur at different points in time' (Mamayek, Paternoster, & Loughran, p. 215). In other words, individuals are faced with two options: offending and therefore accessing immediate rewards; not offending and avoiding future costs such as incarceration. Yet, these two options are not valued in the same way, with individuals tending to prefer immediate rewards over potential future costs.

[17] To this point, McCarthy (2002) argues that information gathering is per se a cost.

Strotz (1955) reported that humans favour immediate gratifications over long-term rewards, and that this effect can be described by a hyperbolic function, coining the term 'hyperbolic discounting'. Herrnstein (1961), as part of his Matching Theory, expresses a similar concept through the term 'Melioration',[18] which is the choice of higher immediate rewards rather than a smaller immediate reward and a larger profit in the future. The concept of time being able to help discount future costs was then formalised by Wilson and Herrnstein (1985), who named it 'time discounting'. Nagin and Pogarsky (2001) included 'time discounting' within the expected utility model to achieve a more realistic description of human behaviour, turning it into a model of discounted utility (DU), according to which the higher the discount rate is, the less the individual will perceive future costs as salient. As I discuss in more detail below, the ability to discount future negative consequences is also tied to personal dispositions, such as impulsivity and low self-control. Indeed, Wilson and Herrnstein (1985) state 'the more impulsive a person is, the more likely he or she is to find occasions when crime will seem more rewarding than non-crime, other things equal' (p. 51). A study by Loughran, Paternoster and Weiss (2012), for instance, found time discounting to be a crucial factor in their participants' willingness to drive drunk. According to Hirschi (1986), time discounting and the preference for immediate rewards could also be the reason why even the possibility of steep informal sanctions, in the form of damaged social bonds, is not enough to deter potential

[18] Herrnstein and Vaughan (1980) further refined this concept in their development of Melioration Theory, based on the matching law (reinforcing frequency influencing frequency of behaviour responses), hyperbolic time discounting and melioration. This introduces a dynamic element to the theory, as choices are constantly evaluated, and the perceived payoffs are not fixed.

offenders, as the present orientation trumps any cognitive evaluation of future social ostracism.

DU models however are not without fault, as scholars have found several 'DU anomalies', describing how certain individuals do not appear to follow the discounting trend assumed by the model. For instance, Gibbs (1975), as well as Frederick, Loewenstein and O'Donoghue (2002) argue for a *negative* discount rate, since the looming prospect of future punishment may cause a feeling of dread in the individual which would in itself constitute a cost. This may reverse the assumed time preference, with a swift punishment being seen as more favourable to the individual's psychological state. To this point, Beccaria ([1764], 1963) wrote, '[T]he certainty of punishment, even if it be moderate, will always make a stronger impression than the fear of another which is more terrible but combined with the hope of impunity; even the least evils, when they are certain, always terrify men's minds' (p. 58).

It is necessary to mention that instant gratification has become a key feature of the current post-modernist societal state, which has elevated consumption to new modern deity, and privileges the 'culture of now'. Indeed, I find quite apt Bauman's (1997) definition of humans as 'sensation gatherers', constantly binging on the short-lived excitement provided by this consumerist culture, rather than relying on values and ideals which would require delaying one's own gratifications in light of future, more long-lasting rewards. It is clear to see how a societal predisposition for immediate gratification has important ramification on criminal decision-making. This is especially true when considering the typology of crime at hand, with illegal substances both providing the immediate

psychophysical feeling of being 'high' when consumed, and a quick way to make profit when sold, therefore giving the ability to live 'life as a party' and participate in the carousel of constant consumerism even to those who would normally be excluded from it (Shover & Honaker, 1992). In this optic, the potential offender is not merely affected by a 'bounded rationality', but also by 'bounded self-interest' and 'bounded willpower' (Bauman, 1997). In conclusion, 'what at first may appear to be a growing tendency for individuals to engage in irrational criminal decision-making "strategies" may in fact be the by-product of a series of subjectivities and emotions that are themselves simply a reflection of the cultural logic and material values associated with late-modern consumerism' (Hayward, 2007, p. 239).

Moreover, Katz's (1988) 'seduction of crime' theory challenges the notion that offenders are merely rational actors weighing costs and benefits by arguing that offending can be gratifying on an emotional level and carry symbolic meaning for the perpetrator. For instance, drug users may engage in risky behaviour not just for financial reasons by also to escape their mundane reality. The thrill and excitement of an illegal activity therefore represents an abstract reward, which can overwhelm risk-reward calculi, and therefore disrupt rational decision-making.

Following Katz' (1988) analysis of the emotional and symbolic allure of crime, Lyng (1990) introduces the concept of edgework, further delving into the psychology of voluntary risk-taking. Edgework refers to the practice of intentionally positioning oneself in high-risk situations, where outcomes are uncertain, but the individual retains a sense of control. This dynamic allows participants to experience heightened levels of 'self-determination and authenticity' (Lyng, 1990, p. 883) as they navigate the precarious boundary between order and chaos.

Therefore, according to Lyng (1990), engaging in risk-taking behaviours is not merely motivated by material gain, but also by the pursuit of intense emotion and empowerment.

Reith (2004) applied Lyng's framework to drug offending, arguing that drug use can be seen as a form of edgework as it offers those who participate in it the thrill of navigating, and negotiating, the line between order and chaos. Moreover, she states that this line is also rendered less stark by modern consumer culture, where both self-control and moderation, as well as excess and overindulgence are encouraged, turning drug consumption in both a form of rebellion and self-expression. In fact, the hyperreality a person reaches through the consumption of mind-altering substances, can be seen as a revolt against the mundane rational society, allowing the individual to live a more authentic existence.

These concepts will be crucial in Chapter Four, where I will explore participants' personal circumstances and motivation.

Heuristics and Biases.

Heuristics are shortcuts which people rely on to make quick decisions, and which often have an evolutionary root. Despite at times leading to erroneous judgements, according to evolutionary approaches, heuristics are not shortcomings, but rather optimising solutions (Ekblom, 2017). For instance, if an individual feels sick after eating an ingredient of a certain texture, they might heuristically choose not to eat any food with that texture to avoid further sickness. After a while, they will not cognitively engage with the choice, but rather instinctively opt to avoid that type of

food, therefore saving cognitive resources. While the human species has evolved considerably and most of the decisions we currently engage in are not survival-based anymore, these heuristics are still present in our cognitive processes and guide our decisions, at times to our own detriment.

Tversky and Kahnemann (1974) identified three heuristics which influence decision-making in uncertain conditions. The first is representativeness, which is 'the degree to which [an event] (i) is similar in essential characteristics to its parent population; and (ii) reflects the salient features of the process by which is generated' (p. 430). In other words, individuals tend to associate certain characteristics to a prototype which they already know. Within the current context, law enforcement might associate certain characteristics such as race, gender, or socio-economic status to their prototypical 'offender'. Likewise, a drug offender might analyse a criminal opportunity and compare its elements to their subjective prototype of a risky endeavour. As these prototypes may not be accurate, this heuristic can lead to irrational decision-making. The second is the availability heuristic, according to which people, when deciding, rely on the examples that their mind makes more readily available. The 'perceived probability of outcome is positively related to how easily memories/attitudes about the outcome are retrieved from memory' (Exum, Austin, & Franklin, 2017, p. 452). Therefore, if due to their previous ability to evade arrest, an individual immediately thinks of the possibility to bribe a police officer and therefore decides to offend, they are fallaciously relying on a scenario which might not reoccur, but that their mind promptly provided. Lastly, Tversky and Kahnemann (1974) discuss the heuristic 'adjustment from an anchor'. While estimating probabilities, individuals start with an anchor value, and

then proceed to 'adjust' it in several steps, stopping once they reach a satisfactory result, which however might not be the most accurate one, therefore leading to what appears to be irrational decision-making. This is particularly crucial when discussing our participants' ability to assess their likelihood of apprehension, conviction, and imprisonment.

A bias which is worthy of notice is the 'gambler bias', also called the Monte Carlo Fallacy, and described as 'the false belief that the likelihood of a specific event occurring is inversely related to the elapsed time or number of trials of enabling conditions since the previous occurrence of the event' (Dictionary of Public Health, 2007). This bias will be important in the discussion of our interviewees' attitudes toward apprehension. In fact, in Chapter Five, I will delve into their thoughts regarding the probability of apprehension. It is possible that our interviewees, when engaging over time in the drug trade, might have felt like apprehension was inescapable as they had 'gotten away with it' for too long, according to the 'gambler bias'.

On the other end of the spectrum, I will be using the concept of 'magical immunity', defined as the 'delusion of exceptionalistic exemption from the laws of cause and effect' (Redl & Wineman, in Claster, 1967, p. 81) to see whether instead the repeated engagement in the drug trade had made the interviewees feel as if their ability to evade arrest had been higher than that of the average offender, therefore rendering them immune to apprehension. Thaler (1988) describes the same idea of an erroneously overinflated confidence in one's own abilities as self-serving bias. This bias was found to be an influential factor amongst burglars, who believed themselves to be more skilled than

other, and therefore less likely to be apprehended and punished. (Tunnell, 1992; Wright & Decker, 1997).

Lastly, I introduce the concept of cognitive dissonance developed by Leon Festinger (1962). He argues that, because behaviours – especially if habitual – are hard to change, people instead tend to modify their beliefs to alleviate the discomfort caused by the cognitive dissonance between the behaviour and the belief. This concept will be crucial in the analysis of the drives behind the criminal conduct, as it might explain why some individuals decided to offend despite being ethically or personally opposed to the crime itself. For instance, a drug addict who is aware that long-term drug consumption will be detrimental to their health will more readily discount or change their beliefs about health than stop consuming substances, as behaviours are harder to change than beliefs, especially in the case of addictions. They could, then, tell themselves and others who criticise their behaviour that the drugs they consume are not the most damaging, that they can be used in specific medical situations, or that other people have lived long lives despite the drugs, and that therefore they too might as well.

Type of Person Theories.

Since the shift to the new penology and associated administrative criminology (see Young, 1994), the 'what works' animus has decreased the attention scholars have paid to the role of attitudes, personality traits, and dispositions in criminal decision-making. However, throughout the decades, several dispositions and personality traits have emerged from the literature as significantly correlated with offending. Wilson and Herrnstein (1985), as well as Gottfredson and Hirschi

(1990), argue that there are consistent variations across individuals in regard to their propensity to engage in criminal behaviour or similar antisocial actions. Even without privileging individual dispositions as the main drivers for criminal decisional processes, a theory of human decision-making which does not take into consideration time-stable individual idiosyncrasies is unlikely to capture the reality of the decisional process.

Gottfredson and Hirschi's (1990) General Theory of self-control, posits that offending stems from an inability of the individual to control oneself stemming from poor parenting during infancy. They argue that if a child has not developed a good level of self-control by age eight to ten, they will likely to be more prone to risky behaviour in adulthood, as well as to have more turbulent social relationships, and to partake more in drug and alcohol use and abuse. Elliot, Ageton and Canter's (1979) Integrated Theory instead tries to account for those cases in which people with high levels of self-control commit crimes, by positing two paths into criminality: one describing the trajectory into deviant behaviour by those with low self-control, and one for individuals with high self-control. The latter, according to the theorists, choose to commit crimes after failing to reach societally driven goals, as argued by Strain Theory, and subsequently enter criminal associations with delinquent peers, which pressure them into committing further criminal acts. The presence of delinquent peers per se has been associated with a 'risky shift' in perceived risk of apprehension, helping the individual discount risks and increase the perceived benefits of the criminal activity (Gardner & Steinberg, 2005). Concerning its influence on criminal decisional-process, low self-control has been found to influence the risk-reward calculus, as people with low self-control

were found to have a higher perceived utility for offending, while at the same time discounting the costs, both formal and informal, due to their future nature (Nagin & Paternoster, 1993). While low self-control appears to aid the discounting of future risk, it is important to also consider an adjacent concept: the failure to consider the future altogether, which is operationalised as impulsivity.

Whiteside and Lynam (2001) identified four traits underpinning impulsivity: urgency, premeditation, perseverance and sensation seeking. In a more recent study, the two traits 'premeditation' and 'sensation-seeking' were found to be consistently related to antisocial behaviour (Lynam & Miller, 2004). Already in 1985, Wilson and Herrnstein had posited that impulsivity might lead to long-term antisocial behaviour, as a failure to consider future consequences would make any immediate reward infinitely appealing. In relation to the previous discussion on the post-modernist ideals of hedonistic consumption and immediate gratification as guiding principles of human behaviour, impulsivity has become not only a by-product, but a trait to aspire to. It evolves the boring *homo economicus* to the abovementioned 'sensation gatherer', which enhances its social status through thrill-seeking. The ability to act on impulse is, by nature, a privilege of the elites, as it implies the resources to fulfil whatever impulsive frivolity the individual might want to acquire or partake in. Moreover, within the overlap of risky and impulsive acts, wealthy individuals have the resources to diminish the risks and at times to nullify potential negative consequences. A relevant example is given by drug kingpins, who constitute the 'elite' of the drug network. They are wealthy enough to indulge in any impulsive whim, but also to bribe their way out of apprehension. While this impulsive life is glamorised in today's society by the elites, it has trickled

down as an aspiration amongst those who, after giving in to the impulsive behaviour, do not have the resources to diminish the impact of the negative fallout. These concepts will be further explored in the analyses of the motivations which had led our participants to engage in the drug trade.

The trait of impulsivity has also been linked to a difference in cognitive processing. In fact, as impulsive individuals are more vulnerable to environmental stimuli triggering their behaviour, they are more likely to employ heuristics and faster, irrational, cognitive processes during their decision-making. Indeed, a study found that individuals who scored higher on sensation seeking tendencies also tended to see risky behaviours as more beneficial than risky (Maslowsky et al., 2011). Likewise, Jones, Lynam and Piquero (2015) found that individuals with high levels of thrill-seeking tend to use substances due to an inability to foresee future costs. This will be discussed in more details in the section on cognitive systems.

Lastly, I want to explore the different personality facets which have been found to correlate with antisocial behaviour. First and foremost, it is of paramount importance to differentiate between the concepts of states and traits. While the first are influenced by environmental stimuli, the second are stable and long-lasting. For instance, the concept of self-control as operationalised by Gottfredson and Hirschi (1990) constitutes a personality trait, as they posit its development during early childhood and its stability throughout the life course.

I will start by discussing states, which are short-lived emotional reactions to environmental stimuli, how these states can influence decision-making and why they should be taken into consideration when trying to understand human decision-making. Then, I will proceed to report on personality traits and structural

modes of personality. In the field of economic psychology, a great number of resources has been devoted to discovering under which circumstances individuals make purchasing decisions, used by sellers and producers to push individuals to buy – sometimes even unnecessary – goods. The variables studied span from store temperature to wall colouring, to soundscape. All these variables are directed towards one goal: creating a positive emotional valence within the buyer. While the decision to commit a drug offence is not as mundane as choosing a cereal brand, studies have found that people who are in a state of positive valence tend to have a perception of future outcomes as more positive (Johnson & Tversky, 1983), and that therefore if an individual is in a positive emotional state, they are more likely to focus on, for instance, the profits of the drug offending, rather than the costs. They will also be more likely to see arrest evasion as a possibility rather than arrest. This is important as all of the individuals in our sample were convicted for drug crimes, including using and dealing. While under the influence of illegal substances, people tend to experience more positive states, therefore adding another foggy lens to their metaphorical vision, rendering future predictions of costs and rewards less clear, and skewed towards positive outcomes.

The only type of emotion or state which might fit within the RCT model are the 'anticipated emotions', which are moods an individual expects to experience as a consequence of their decision. Yet, the decisional process itself is not devoid of emotional states, and yet RCT does not consider any 'immediate emotions' which accompany the action of choosing (Loewenstein et al., 2001). For instance, Tangney and Dearing (2002) list shame, empathy, compassion, guilt, and concern as states which often occur when a person commits an action that might

violate moral rules. As drug dealing is considered a *mala in se* in Indonesian communities, and is associated with a high degree of stigma, these emotions would need to be computed in any model wishing to describe criminal decision-making within this context. To this point, Grasmick and Bursik (1990) developed an integrative model inclusive of shame and guilt as costs for the rational choice, arguing that fear of punishment is not merely a cognitive factor but also an emotional experience, which can in turn influence risk perception.

Andrews and Bonta (2010) include personality among their Big Four correlates of offending, alongside antisocial peers, history, and cognition. Yet, they argue that compared to the other aspects in the Big Four, personality has received considerably less attention despite its strong links to criminal activity, and especially recidivism. Personality is defined as 'relatively enduring patterns of thinking, feeling and behaviour exhibited within individuals' (Jones, 2017. p. 183). It is also composed of different facets, hence through the decades scholars have developed a multitude of structural models to encapsulate its many facets. Those used the most are the Five Factor Model (FFM) (John & Srivastava, 1999) and the HEXACO model (Ahston & Lee, 2004). Several dimensions of both models have been associated with antisocial behaviour. Individuals who score high on honesty and humility, emotionality, and conscientiousness are less likely to engage in criminal behaviours (Ashton & Lee, 2008; van Gelder & de Vries, 2012). Instead, people with high scores in the dimension called openness, which stands for openness to experiences, were found more likely to have higher levels of psychopathy (de Vries & van Kampen). To this point, Lorenz and Newman (2002) argue that people affected by high levels of psychopathy struggle with desisting

from behaviours which were previously rewarded, causing a deficit in their response modulation.

In this optic, criminal behaviour is a reaction to an inability to cope with one's emotions. To re-establish the psychological homeostasis, the person reacts in ways which are considered irrational to the outside observer (Jones, 2017). Individuals' personalities also do not operate in a vacuum, but instead there are different 'transactions' that have been posited to occur between the individual and the environment. The two which I deem relevant to the current thesis are the reactive person – environment transaction and the proactive person – environment transaction. The first one accounts for the differences in which separate people experience the same situation due to the mediation of their personality traits (Caspi & Roberts, 2005). For instance, an impulsive individual may see the offer to be a drug courier as extremely positive, while a person lower on impulsivity might experience negative feelings during the recruitment stage due to their personality. In the same way, an individual might carry out a crime without being overly anxious and therefore see the criminal endeavour as an easy way to make money, while another individual who is more fearful by nature might live the criminal experience as a necessary burden. Research has found, for instance, that people who tend to have an aggressive personality are also more likely to have a hostile attribution bias, which means that, when presented with an ambiguous trigger, they tend to interpret it as aggressive; likewise, they associate more positive affect to aggressive behaviour (Dodge & Schwartz, 1997).

The second transaction instead argues that people prefer to inhabit environments which are consistent with their personalities (Caspi & Roberts,

2005). It stands to reason, then, that some people are inherently more prone to committing an offence considering their personality, as they might be keener to engage in certain – risky – activities. This might also explain phenomena such as criminal peer association and offender convergence (Felson, 2003). The question of determinism here starts raising its head, and whether personality might exert such an influence on an individual's life trajectory to render criminal engagement almost inescapable. Yet, Sampson and Laub (1990, 1992, 1993) still countered this potential argument with the following findings: even though troublesome behaviour appears almost a *conditio sine qua non* of chronic adult offending, and despite most chronic offenders having had troubled childhoods, most troublesome children do not go on to become chronic offenders in their adult age. Thus, while certain personality traits can predispose a person down a path of criminality, this does not deny the concept of choice, or the impact that other environmental and societal factors might have on the individual. Taking into consideration both personality and environment, Situation Action Theory, developed by Wikström (2004) posits that crime occurs both due to the criminal propensity of the individual, and its interaction with the situational circumstances. Between the initial triggering interaction between the two factors and the final offending action, other factors also contribute to the final outcome, such as morality and habits (Wikström, 2006). This theory will be of particular in interest when discussing the recruitment process.

Contributions From Neuropsychology and Psychophysiology.

From a biological perspective, the decision to choose an option over another can be reduced to the activation of different synaptic paths. While this might appear quite deterministic, there are a multitude of different neurological and biological variables which influence the decision-making process and can lead to the choice to offend rather than deterrence.

Several parts of the brain are involved in decision-making, and in the next section I will focus on the following: *pre-frontal cortex, limbic system, HPA*, and the *insula*; I chose these specific areas as the literature is in agreement on the role they play in different aspects of decision-making. While this thesis is not neuropsychological in nature, being able to recognise the impact of biological factors on decision-making is necessary to expand the rational choice perspective to one focused more on 'reasoned choice' (van Gelder et al., 2014), and cognizant of the individual idiosyncrasies due not just to sociological variables, but also to biological ones.

The prefrontal cortex has received a great amount of attention in the literature for its important role in decision-making. Located in the frontal lobe, within the cortical area spanning the forehead, the prefrontal cortex allows humans to resist impulsive behaviour and manage high executive functions. Injuries or malformations in this area often lead to an inability by individuals to stop themselves from engaging in impulsive behaviour (Clark & Manes, 2004). Since the frontal lobe develops throughout adolescence and into young adulthood, this explains why adolescents often struggle with controlling their impulses (Blackmore & Choudury, 2006). While the areas of the brain contributing to affective maturity develop at an earlier age (Nelson et al., 2005), the slower development of the

frontal lobe creates a situation in which adolescents are more emotionally driven and simultaneously more prone to risky decision-making (Somerville, Jones, & Casey, 2010; Steinberg, 2008).[19] This argument will be important in the discussion of the age at which our interviewees first became involved in the drug trade. Interestingly, a study found that a specific region within the prefrontal cortex, called orbitofrontal cortex (corresponding to the area behind the eye sockets), was thinner among young people with Conduct Disorder, causing them to struggle with regulating their affect (Huebner et al., 2008). As a significant aspect of Conduct Disorder pertains to aggression towards others, it may be rooted in the orbitofrontal cortex's inability to regulate their feelings toward others. Indeed, Rosenbloom and colleagues (2012) report that people who have a deficit or have sustained a lesion in the orbitofrontal cortex 'may fail to alter their decisions to a given stimulus despite a negative associated outcome' (p. 267).

The orbitofrontal cortex is tightly linked to another crucial region of the brain, the limbic system, which regulates 'reward-based and emotional decision-making' (Rosenbloom, Schmahmann, & Price, 2012, p. 266). The limbic system, also called the 'visceral brain' due to its early evolutionary development and role in managing emotional drives and threat responses, is composed of different structures: *hippocampus, amygdala, septum, cingulate gyrus, nucleus accumbens, hypothalamus and thalamus* (De Lisi, 2016). Damasio (1996) was the first in modern neuropsychology to propose an incorporation of emotions within decision-making through physiological responses. With his Somatic Marker Hypothesis, he argues that because emotions are accompanied by a somatic

[19] According to the field of evolutionary developmental biology (evo-devo), this discrepancy is due to evolutionary reasons, to guarantee the reproduction of the species. In fact, according to the 'young male syndrome', young males who take risks are seen as better candidates for reproduction by females, therefore increasing the chances of reproduction (Steinberg & Belsky, 1996). As adolescence is the period of maximum fertility amongst human females, it stands to reason that evolution has incentivised risk taking amongst young males.

response in the body (e.g. sweating and palpitations when anxious), future decision-making processes will take these physiological reactions into account (e.g. deciding against consuming drugs to avoid the palpitations caused by fear of apprehension). In the context of drug offending, the limbic system sends a message to the cortex regarding a desire to consume drugs, as the latter elicits a positive feeling. The cortex will then vet the impulse and veto it or not depending on relevant factors. The limbic system of psychopaths, murderers, people with Antisocial Personality Disorder, and domestic abusers has been found to differ from that of controls (Birbaumer et al., 2005; Lee, Chan, & Raine, 2008; Raine, Buchsbaum, & LaCasse, 1997; Shneider et al., 2000). A separate but related structure that has been reported as having a connection to impulsive antisocial behaviour is the *nucleus accumbens*, which regulates dopamine release (Buckholtz, 2010). Dopamine is the hormone responsible for eliciting pleasurable feelings, motivation, and satisfaction, and drugs can affect its release, therefore triggering the limbic system into working excessively, leading to dysregulations which in turn can affect decision-making. Within the structures of the limbic system, the amygdala has received the most attention, as it is responsible for fear induction, as well as empathic responses (De Lisi, 2016). Psychopaths, for instance, appear to differ from non-psychopaths in the volume of their amygdales, which tend to be smaller. In this case, it is important to mention that people affected by high levels of psychopathy often come from very troubled families, and that their amygdales might have learned to be less responsive to what would be considered average levels of fear due to the excessive levels of anxiety or worry they were exposed to during childhood (Patrick, Fowles, & Krueger, 2009). An under sensitive amygdala in turn may cause people to underestimate the risks of crimes, or to not feel any emotional or

physiological response in the face of danger, therefore rendering criminal endeavours as more appealing and rewarding.

There is another structure, or rather a connected set of structures in the human body which also rely on emotions and fear to ensure conscious and rational decision-making, and which can be damaged by chronic stress: the hypothalamic-pituitary axis (HPA). The HPA is responsible for the fight or flight syndrome, so that when we perceive a danger, the hypothalamus (in the limbic system) tells the pituitary gland to release a hormone, which in turn makes the adrenal glands release cortisol, also known as the stress hormone, leading to a fight or flight reaction. However, if a person grows up in an environment characterized by chronic stress, this axis stops working correctly in stressful conditions, for instance when being asked to become a drug courier (De Lisi, 2016). What should have resulted in a fight or flight response leading to deterrence becomes instead a viable action for the individual to take.

Lastly, I believe it relevant to the current thesis to report on novel discoveries regarding the role played by the *insula* in risky decision-making. The *insula*, located in the lateral sulcus, is responsible for providing signals pertaining to internal states (e.g. temperature, taste, pain). It has also been found to be responsible for making drug addicts aware of their urge to consume substances (Naqvi & Bechara, 2009). The hypothesis is that the *insula* influences decision-making to re-establish a homeostatic state which is favourable to the individual (Paulus, 2007). For instance, if a person has lost a considerable sum of money by being burgled, the *insula* will push the individual to earn more money to restore their finances and self-image and decrease the stress caused by a sudden loss of wealth (Xue et al., 2010). Criminal endeavours, especially financially motivated ones such as drug selling, offer an opportunity to the offender to gain control

over their own finances, as well as to increase a positive sense of self upon a successful criminal act (Shover & Honaker, 1992). A study which presented participants with sets of risky or non-risky decisions in a gambling task and measured their *insular* activation found that the *insula* of those who passed on a gamble but then 'made up for it' by increasing their risky behaviour showed higher levels of activation during the deliberation process (Xue et al., 2010). This is likely to be connected to other findings, which have shown that *insula* is also more activated when a person perceives the distribution of goods to be unfair or unequal (Hsu et al., 2008). After 'playing it safe' on a previous gamble, an individual might feel like they are entitled to engage in risky behaviours and gamble, re-establishing a sense of fairness.

Within the context of the current study, this will be an interesting point of discussion regarding the motivations behind the participants' choice to offend, as well as their perception of their own financial situation. Moreover, in the study by Xue and colleagues (2010) individuals who had scored higher on 'urgency' (measured through the UPPS Impulsive behaviour Scale by Whiteside and Lynam, 2001) had also an overactive *insula* during decision-making after passing on a gamble. This trait of urgency has in the past also been associated with drug abuse (Fischer & Smith, 2008; Whiteside & Lynam, 2003). What these studies suggest is that individuals might be tempted to react impulsively by, for instance, engaging in the drug trade, after a period of avoiding risks, if their *insula* is particularly sensitive. As aptly summarised by Xue and colleagues (2010), 'changes in homeostatic states, as triggered by monetary gains, losses, uncertainties, excessive prices, inequity and so on, will lead to a decision that helps to balance the homeostatic state, such as taking or rejecting a gamble, purchasing or rejecting a good, and taking or rejecting an unfair offer' (p. 715). This will be of particular interest when I will discuss the results on

the personal circumstances of our interviewees right before they had to make the decision on whether to commit the crime. Mentions of important changes in their lives, emotional circumstances or uncertainties might point towards a decision-making process influenced by the *insula*, and therefore driven more by gut-feeling than rationality, aimed at re-establishing the homeostasis.

Any theory which assesses decision-making needs to take into consideration how individuals differ from one another in terms of anatomy. Classical RCT presumes individuals are born as 'blank slates', all equally able to participate in criminal activities given the right costs and rewards, as well as all equally able to engage in the decision-making process. The literature I reported on in this section, however, showcases how limiting such a view is, and supports future discussions regarding reasoned choice able to encompass both sociological and psychophysiological variables.

Cognition: Dual System Theories.

The idea of more than a single cognitive system guiding human behaviour can be traced back to the infancy of decision-making theories. In ancient Greece, emotion and cognition were seen as separate systems, as evidenced by Plato's (380 BCE) division of the soul into three parts: the reason (*logistikon*), the spirit (site of emotions, *thymoeides*) and the desire (*epithymetikon*). To this point, some people were perceived as afflicted by 'short sighted passions' in their irrational acts (van Gelder, 2017). Likewise, Descartes ([1649] 2010) argues that passions are in contradiction to deliberation, while Adam Smith (1790) states that humans struggle between 'passions' and 'impartial spectators'. Hume (1896) as well states that reason is the slave of passions and cannot recuse itself from its subservient

role, therefore theorising a separation of the two. Lastly, Freud's (1923) tripartition of the human psyche between id, ego, and superego, posits a distinction between the aspect of the personality which is responsible for impulsive desires (id), and a more rational, morally responsible side (superego).

More recently, scholars have theorised the presence of two separate cognitive processes involved in decision-making, and called them system 1 and system 2, slow and fast cognition, reflective and associate systems, and cool and hot cognition (Evans & Stanovich, 2013; van Gelder, 2013; Hofmann et al., 2009; Kahnemann, 2011; Metcalfe & Mischel, 1999). With small dissimilarities, they all share the same base concept: the presence of one cognitive system which is deliberate, sensitive to rational calculus, probabilities, and risk perception, and one cognitive system which is more impulsive, automatic, emotional, and utilises heuristics and biases to arrive at the final decision rather than rational calculus. For the rest of the thesis, I will use the terms 'cool' and 'hot' processing, as they were discussed most recently by van Gelder (2013) and represent the more novel conceptualisation of this dual-system idea.

According to Smith and Neumann (2005), while the cool mode needs to be activated consciously, hot processing is automatic. Therefore, for rational decision-making to occur, cool processing needs to override the instinctual hot mode, which is not an effortless endeavour when most criminal rewards are instantaneous (van Gelder, 2017).[20] In fact, when faced with a familiar circumstance or choice, the human brain tends to rely on automatic mental scripts in response. An example of

[20] Slovic and colleagues (2004) also discuss the partially porous nature of the cool system, stating that even decisions made through cool processing can still hold a 'faint whisper of emotion' and therefore be impacted by affect or visceral states.

a contextually relevant mental script is, for instance, to be offered to consume drugs by friends. The individual is weighed by social pressure, to which they may have already given in in the past; they already anticipate the 'high' feeling of the drug, and let themselves be guided by the script which will lead them to follow the same steps they have taken in the past, and consume the drugs (e.g. find a private spot, gather the drug paraphernalia, socialise, avoid detection). These scripts, as implied by the previous example, are especially salient for repeat offenders; moreover, if after spending time in prison an individual returns to the same familiar circumstances, environments, and social circles which triggered the initial criminal activity, they are more likely to fall back into an offending script whenever they are offered a chance and their hot processing system takes over out of habit (Dhami et al., 2006). Feeney (1986) offers evidence for this when finding that amongst a sample of robbers, 60% had not even thought about the possibility of apprehension when they had decided to commit the crime. This might also be due to a process called 'habituation', whereby a specific context becomes associated with a repeated or routine action, causing more cognitively taxing processes to be skipped in favour of automatic ones, as the decision is led by the *striatum* (part of the brain involved in managing and learning outcome expectations from past experiences) rather than the pre-frontal context (Graybiel, 2008).

In summary, while the hot/cool cognition distinction does not imply a lack of rationality, it suggests that more attention should be paid to the role of emotional states in decision-making, to the point that seemingly irrational choices to offend can be the result of the cool system's inability to override the immediate response of the hot system, guided by emotions and visceral drives, such as a desire

for material goods or the need to consume an addictive substance (LeDoux, 1996; Loewenstein & O'Donoghue, 2004). Van Gelder (2017) presents an important argument concerning this implication, stating that people who commit crimes in a hot state might need a different response from the criminal justice system to prevent recidivism or help with rehabilitation.

Strengths and Limitations of Reasoned Choice Perspectives

This thesis was born out of the interest in testing classical RCT within the Indonesian drug offending context. As the main hypothesis is that such a restrictive theoretical framework will not be able to accurately describe the behaviour of potential drug offenders, I discussed alternative approaches which, through the years, have highlighted separate aspects of decision-making and their impact on the final offending or non-offending outcome. I have not proposed one theory as a single better approach to understanding decision-making, but rather I have demonstrated how there are many relevant facets that ought to be considered when investigating such a complex phenomenon. The strength of considering emotions, cognitive processes, interpersonal dynamics, neuropsychological factors, heuristics and biases etc. is undoubtedly the higher generalisability, as such a portrait would resemble real–life decisional processes more closely. In turn, this can shape evidence-based policies and interventions which are likely to have a higher success rate than a mere bet on increased punitiveness. On the other hand, the creation of a model able to incorporate factors spanning from neurological conditions to emotional states, to personality traits and all the variables hereby presented would require immense computational power, high sample sizes and

numerous testings in a variety of contexts, given the contextual and cultural impact of several of the factors. This would move the investigation of the emergence of criminality towards the field of complex systems theory. In this optic, criminality could be studied as a macrodynamic developed through the interactions of delinquent peers with one another and with the surrounding environment (Axelrod, 1997; Railsback & Grimm, 2011). A compromise between the two approaches might be the only available option currently, starting from the assumption of 'reasoned' choice rather than a purely rational one, and being mindful of the individual idiosyncrasies and other systemic influences which lead to apparently irrational choices. In the words of Oldfather (2007) this would constitute a shift from 'one model incorporating an assumption about human behaviour – that people act rationally – with another that likewise incorporates an assumption about human behaviour – that people act irrationally in predictable ways' (p. 253).

Conclusion

Currently, the Indonesian government's response to drug crime is rooted in a classical RCT framework, with severity of punishment being the main factor used in the hope of achieving deterrence. In practice, such a punitive system has failed to reach its desired goal of a drug-free Asia, or even a reduced volume of the regional drug trade. In this chapter, I have presented how it is possible to study decision-making using less rigid theoretical frameworks than the one assumed by the Indonesian government, able to better capture the multifaceted nature of human behaviour. By looking at criminal decision-making through the lens of

other choice-based theories (e.g. control theory, game theory, dual system theory), and taking into account the important contributions which several disciplines in the fields of sociology, psychology, and neurophysiology have provided (e.g. heuristics and biases, edgework, personality traits) it should be possible to shine a light on how choices are negotiated at the individual level, based on a multitude of factors going beyond mere severity. Taking into consideration a broader range of variables when investigating human decision-making implies a shift from what is currently assumed to be a rational choice towards what is more cautiously, but realistically, defined as a 'reasoned' choice. In the following chapter, I will outline the methodologies used in the present study; then, in the empirical section of this thesis, I will proceed to report the results of my analyses, calling forth concepts, theories and ideas presented in this chapter as explicatory tools.

3. Methodology

Research Design

The present study was designed with the primary objective of evaluating whether drug offenders' decision-making within the Indonesian context adheres to the classical rational choice framework espoused by governmental authorities, a framework used as the basis for justifying the harsh sanctions associated with drug-related crimes. Consequently, it seeks to investigate whether alternative decisional approaches could offer a more authentic representation of real-world criminal decision-making.

RCT, as conceptualised by the Indonesian government, belongs to the realm of normative theorising which prescribes what should ideally occur in a society populated by omniscient and perfectly rational actors. However, as detailed in Chapter Two, reality often fails to mirror the expectations of what theorists presume ought to happen. By considering criminal decision-making in the Indonesian context, specifically for drug-related offences, I aim to subject this normative theory to empirical scrutiny, examining what occurs during real-life human decision-making. In doing so, I challenge the strand of the theory rooted in economic theory of expected utility maximisation, and propose alternative approaches which incorporate cultural, sociological, and psychological elements of decision-making.

It is important to clarify that this thesis does not dispute the presence of a kernel of rationality in most criminal decision-making. However, it endeavours to broaden the scope of the theoretical framework to encompass the myriads of factors which limit rational thought during critical moments and shape the final decision. Furthermore, it is crucial to

acknowledge the impossibility of conducting a study based on an experimental design, which would allow for variable manipulation and determine causation (e.g. harsh sanctions causing desistance) as it would involve randomly assigning individuals to an 'arrest and incarceration' condition, therefore violating ethical standards present in any discipline[21].

Nonetheless, I anticipate that this descriptive and perceptual theory of decision-making for drug offences in a jurisdiction which imposes lengthy incarceration even for minor drug crimes will underscore the inherent limitations of relying solely on high punitiveness, within the Southeast Asian context. Cognisant of the inherent limitations, we sought to uncover why individuals engaging in drug offences in Indonesia remain undeterred despite the elevated risks.

To assess whether Indonesian drug offenders operated according to a decisional model based on expected utility maximisation, we dissected the various elements on which the theory is based: knowledge of the law, risk perception, and rational decision-making. In essence, people must possess a thorough understanding of the law and potential consequences, assess the costs and benefits associated with the criminal activity, and lastly, exhibit rational behaviour by abstaining from crime when the perceived costs outweigh the expected benefits. To investigate the reasons for the evident ineffectiveness of this deterrent approach within the prison population, we decided to specifically assess these three elements and, more broadly, individuals' personal circumstances during the decision-making process. The goal was to illustrate the subjective nature of decision-making and how the government's stringent interpretation of RCT fails to acknowledge the substantial

[21] Another option would have been to conduct a natural experiment, analysing the impact of exogenous shocks such as drug legislation or policy changes on the variable of interest. As the objective of the present research was to illuminate decision-making processes of Indonesian drug offenders specifically within the current criminal justice system, I decided not to conduct a natural experiment.

impact of personal circumstances, emotions, cognitive biases, and cultural factors on an individual's rationality, often resulting in decisions to commit offences which are detrimental to the individual's well-being in the long term.

While semi-structured interviews provide invaluable insights into the decision-making processes of offenders, they are not without limitations. One significant constraint is the potential for social desirability bias, with participants wishing to present themselves in a more favourable light to align with societal expectations, or perceived researcher approval (Edwards, 1957). This is particularly relevant considering the sensitive nature of the current study, as offenders might wish to minimise their culpability or rationalize their actions.

Additionally, the reliability of the interviewee's memory poses a challenge. Considering the time lapsed from the moment of decision-making to the time of the interview, participants may have forgotten or distorted certain aspects of past event, leading to a 'rewriting' of their past in line with neutralization theory (Sykes & Matza, 2017). Therefore, both consciously and unconsciously, individuals might misreport their personal narrative, providing more socially acceptable justifications for their behaviour. Furthermore, hindsight bias, which refers to how knowledge of an event's outcome can lead individuals to perceive it as having been more predictable than it had been, could have affected the risk perceptions reported by our interviewees (Fischhoff, 1975). As the sample of this study is comprised of incarcerated individuals, their risk perception of arrest, conviction, and incarceration may be skewed towards higher levels of perceived risk in virtue of their own arrest, conviction, and incarceration.

Despite these limitations, interviews remain a critical tool for capturing the nuanced and subjective experiences of offenders, allowing an exploration of several

dimensions pertaining to decision-making, including emotional states, cultural contexts, and individual circumstances. To minimise such risks, the interviewers reminded the participants multiple times during the session to think back to their first offence of similar severity to the one they are currently incarcerated for and reassured them that if they did not remember something, they could simply say so, rather than guess.

As thoroughly explained in the previous chapter, this study draws upon a diverse array of theories pertaining to offender decision-making from the disciplines of criminology, sociology, psychology, and behavioural economics. These theories serve as the foundation for illustrating the risky, counterproductive, and counterintuitive offending choices made by the individuals in our research sample.

In its embryonic stage, this study was intended to centre on the concept of deterrence, employing stringently quantitative methodologies with the aim of extracting valuable insights from Indonesia's trends in executions, death sentences, health-related indexes (e.g., overdoses, access to health services), and a wide array of economic variables. However, due to the infrequent nature of executions in Indonesia, the constrained timeframe we would have needed to work within – further limiting the data-set – as well as the challenges that would have emerged in trying to access the actuarial data, a quantitative approach was likely to compromise both the internal and external validity of the project. Consequently, through multiple iterations of this research, we instead opted for a mixed-method approach, allowing us to pivot the discourse towards the lived experiences of those whose lives have been profoundly impacted by the policy implications arising from a rigid rational choice perspective privileging punitiveness. It is within their personal narratives that we can delve into the themes that unveil the intricate negotiation of criminal-decision making at the individual level.

In a departure from the ideals promoted and fostered by the new penology (Feeley & Simon, 1992), we aspire to keep the individual front and centre in our analyses, refusing to reduce all drug offenders to a single category assumed to be governed by uniform impulses, logics, and rationales. Historically, there has been a reluctance to amplify the voices of offenders, while the perspectives of victims have gained more and more traction in the public sphere as well as within the judicial one (Kunst et al., 2021). This reticence, whether born of apprehension over being fed a trite justification aimed at pulling at the public's heartstrings, or the more pragmatic concern of turning the black and white matter of guilt and punishment into a grayscale of humanity, has often led previous research agendas on the topic of long-term incarceration for drug offenders in the Southeast Asian context to exclude the voices of the offenders themselves. A further complication concerns the perceived unsuitability of drug offenders being seen as victims themselves within a broader systemic context, a perspective typically embraced only by the offender's family members and scholars. As Becker (1967) stated, 'In the course or our work and for who knows what reasons, we fall into deep sympathy with the people we are studying, so that while the rest of society views them as unfit in one or another respect for the deference ordinarily accorded to fellow citizen, we believe that they are at least as good as anyone else, more sinned against than sinning' (p. 240). While Becker (1967) proceeded to acknowledge that researchers often seek ways to exonerate and 'whitewash' deviants, I propose an alternative perspective: in a field of penology more preoccupied with categorising its subject than comprehending them, any qualitative insight aimed at restoring a sense of humanity and bridging the divide between the average well-intentioned citizen and the marginalised, 'othered' offender (Drake, 2011; Greer & Jewkes, 2005; Griffin, 2017) represents a necessary recalibration of a system inherently skewed against

the more underserved in society. For these reasons, we have directed our methodology from a completely quantitative approach towards a more qualitative one, better suited to capture the lived experiences of the individuals whose decision-making processes we sought to elucidate.

This research study represented a collaborative effort involving the Death Penalty Research Unit at the University of Oxford and the Death Penalty Project, London. We designed the study, developed the research tool, and commissioned the Universitas Katolika Atma Jaya[22] to conduct 57 qualitative interviews with Indonesian drug offenders situated within the confines of the Cipinang penitentiary in Jakarta. I was involved in the design of the research tool, then coded the responses, and analysed the data, the results of which are reported in this thesis.

Ethics

During the formulation and execution of this study, three primary ethical considerations demanded careful attention. The initial concern was due to the timing of the project, which commenced at the beginning of the Covid-19 pandemic. Therefore, it became of paramount importance to ensure the safety of both the interviewers and the prisoners during the administration of the research tool.

The interviews were conducted in October 2021, following the start of the Covid-19 vaccine roll-out and at a time when Covid-19 infection rates in Indonesia were on a downward trajectory. With only a thousand daily infections and approximately fifty daily fatalities, these were relatively favourable statistics considering the nation's population of

[22] This study was funded by the Economic and Social Research Council, The University of Oxford John Fell Fund, the European Union and the UK Foreign, Commonwealth and Development Office.

272.25 million (Statista, 2021). The interviews took place in a designated classroom within the prison, with the tables being sanitised by inmate prison staff[23] after each interview session. Interviewers and prisoners adhered to strict safety measures, including maintaining a six-foot distance and wearing protective face masks at all times.

The second ethical consideration stemmed from the intrinsic inability of prisoners to give full consent due to their coercive environment. Prisoners are categorised as vulnerable or 'at risk' participants, because of their limited ability to make free choices about whether they wish to participate in a research study. To mitigate the risks of coerced participation, prison guards were asked to extend an open invitation to prisoners who had been sentenced to medium- or long-term incarceration, which were defined as sentences exceeding ten years. Subsequently, we checked the participants' willingness to participate at different stages before the start of the interview process. Before the administration of the tool, interviewers explained the aim and structure of the interview, provided the prisoner with the information sheet, and offered to read its contents aloud if preferred. If a prisoner expressed the desire to participate, they were then provided with the informed consent sheet to review and sign. They were also reminded that, at any time, they could decide to suspend or terminate the interview, and that they could withdraw their data from the analysis within a certain deadline. Furthermore, participants were given the choice to not have their interview audio-recorded if they did not wish to. Out of the initially identified 64 individuals, one person opted not to participate in the study and was therefore not interviewed, while two chose not to be audio-recorded, thus prompting the interviewers to record their responses in written form.

[23] Inmate staff members are individuals who are serving their sentences while also carrying out tasks needed within the prison as part of the personnel.

Compensation for participants' time within the context of prison settings introduces a complex ethical dimension, as it has the potential to heighten the coercive aspects of participants' involvement. For this study, we offered to each participant compensation in the form of toiletries and food with an approximate value of five euros. This decision was informed by the insights of our research partners at Atma Jaya University, who possess extensive experience in conducting interviews within prison environments in Indonesia. They believed the five euros worth of items and food to be a good compromise between adequately compensating participants for their time and helpful cooperation, and not offering an excessively high reward which might incentivise prisoners to subject themselves to the interview unwillingly, for the sake of earning the recompense.

Lastly, the third ethical concern specific to the population at hand pertained to the possibility of inflicting undue psychological harm upon the participants due to the potentially distressing nature of the subject matter under examination. This is even more crucial when thinking about the already pervasive strain prison conditions impose on the mental well-being of inmates, coupled with the high incidence of mental health disorders among prison populations across the world. These disorders may either pre-exist and be exacerbated by imprisonment or develop during confinement (Constantino et a., 2016; Fazel, Doll, & Langstrom, 2008; Gibbs et al., 1991; Zamble & Porporino, 1992).

Sykes (1958) introduced the concept of 'pains of imprisonment' to describe the negative adverse consequences of incarceration which go beyond the mere limits to freedom. These 'pains' include mental health deterioration, as well as increased physical ailments, damaged social relations due to isolation, and other negative consequences of imprisonment. As some of the interview questions delved into sensitive topics such as past

abuse, trauma, interpersonal relationships, and hypothetical punishment scenarios, we were acutely mindful of the necessity of preventing any further harm to people who might have already been suffering due to mental disorders, and whose condition might be exacerbated by our line of questioning.

To address this concern, the Atma Jaya team administered the Brief Jail Mental Health Screen (BJMHS) before the start of each interview. The BJMHS is a non-diagnostic screening tool developed by Policy Research Associate, Inc., (2005) and sponsored by the US National Institute of Justice, which is routinely used in US prisons during intake and booking processes to screen for severe mental disorders and psychiatric issues. If participants respond affirmatively to either item seven (taking prescribed medications for mental health problems) or item eight (having been to the hospital in the past for mental health problems), it automatically warrants a referral for further evaluation. Additionally, if participants check at least two items out of the first six (e.g. belief to be able to read people's minds, having their own mind controlled, or slower speech or mobility), they are also deemed likely to suffer from a severe mental disorder, and should therefore also be referred.[24] Within our initial sample of 64 prisoners, one person refused to be screened and was therefore excluded from the study, and an additional six individuals were excluded from participation because of the possible presence of severe mental disorders as revealed by this screening tool: two accepted a referral to the prison clinic, while the rest declined referrals despite reporting multiple symptoms described in items one to six.

To further safeguard the mental well-being of our participants, the interview protocol included specific procedural guidelines for addressing distressed or upset participants. In the case of a moderately troubled participant, the interviewers were

[24] For more information on the tool and its validation, see Steadman and colleagues (2005).

instructed to momentarily pause the session and say, 'I can see this is upsetting you a bit. If you wish, we can take a break, or we can stop the session altogether. We appreciate your participation, but it is your choice whether we continue, or take some time before we resume'. Conversely, if a prisoner appeared severely distressed, the interview was to be immediately terminated and the interviewer would employ a de-escalation approach by stating, 'I can see this is very upsetting for you. Thank you so much for being so open with us and helping with our study. We have gathered enough data, so there is no need to continue'. Importantly, in both cases participants would still receive compensation. Fortunately, no interviews were interrupted or terminated due to heightened distress levels. This favourable outcome may be attributed to the prevalence of background and motivational questions[25] in our interview tool in contrast to the relatively limited number of inquiries focused on their current predicament. Additionally, it is important to credit Atma Jaya University's research team for their ability to build rapport and cultivate a supportive and positive interview environment, given their vast experience interviewing people in prison, as well as people who use and trade in drugs.

One last ethical consideration pertains to my positionality as a researcher coming from the Global North, with educational backgrounds rooted in institutions situated in the Global North, conducting research in the Global South and investigating decision-making processes of individuals of a different culture. This ethical concern is two-fold. Firstly, it underscores the importance of acknowledging cultural differences in approaching the research task, particularly when choosing lines of inquiry, selecting which interview questions to include in the tool, and how to properly frame questions to ensure they are contextually relevant, respectful, and effective. Secondly, it necessitates an

[25] These are questions about their motivations for becoming involved in drug offending.

examination of the fact that a substantial majority of research conducted on rational choice perspectives emanates from the Global North, has been operationalised using concepts which themselves have been developed in the Global North, and which have been also tested in the Global North.

To address the first concern, I endeavoured to practice reflexivity, mindfully delving into potential unconscious biases, and consulting the research partners at Atma Jaya University while developing the interview tool. Through extensive online collaboration, every question on the instrument was dissected and perfected to ensure cultural relevance and efficacy. We deleted several items which the Atma Jaya team did not deem appropriate or relevant and we simplified questions which they suggested might cause interviewees to fabricate an answer rather than admit ignorance, or which would prove too cognitively taxing.

Regarding the second concern, this research projects aspires to position itself within the broader framework of Southernizing the field of criminology. It intentionally refrains from the uncritical application of Northern-developed theories to Southern contexts. Instead, it critically calls into question the effectiveness of such models in elucidating decision-making, particularly within diverse regions. Consequently, the research takes into account cultural nuances and individual circumstances that are contingent upon the regional context, aiming to foster a more comprehensive understanding of decision-making processes within these unique environments.

Participants

Our inclusion criterion stipulated that participants must have been convicted of a drug offence severe enough to warrant a fixed-term prison sentence, with a preference for individuals who had been convicted to medium- or long-term imprisonment.

We excluded any participant below the age of 18 or over the age of 70. Additionally, we excluded all participants suspected to be suffering from a severe mental disorder for the reasons outlined above (see the section on ethics), resulting in a total of 57 participants from Cipinang prison in Jakarta.

Materials

In line with the programmatic aim of this study to comprehensively explore the circumstances surrounding the prisoners' decision-making at the time of the commission of the crime and evaluate whether their decisional processes mirrored the level of rationality assumed by the government, almost completely reliant on sanction severity, we developed a semi-structured interview tool with open- and closed-ended question for a mixed method approach encompassing both qualitative and quantitative data. Some of the close-ended questions had yes/no responses, others had three-point Likert scales (e.g. level of worry about potential imprisonment), and other had five-point Likert scales (e.g. importance of informal sanctions, perceived likelihood of arrest, conviction, and sentencing). We structured the open-ended questions to be non-leading and allow the interviewees to fully convey their experiences and perceptions.

This instrument is divided into five distinct sections: participant demographics, background, recruitment into offending and motivation for offending, knowledge and risk perceptions about the law and justice process, and lastly procedural safeguards experienced

following arrest and overall treatment by the police. In the following paragraphs, I will outline the structure and objective of each section.

The first section, focused on demographics, is composed of five questions pertaining to the prisoners' age, gender, nationality, educational attainment, and relationship status. While we did not collect data which could identify any of our participants, and therefore breach our guarantees of anonymity, it is fundamental to gather basic demographic information about participants. This is especially relevant when conducting studies with prison populations, as their demographic characteristics often diverge from those of the general population and can offer insights beyond mere categorisation. For instance, the revelation that most prisoners have only completed elementary school could inform us about their job prospects or financial situation. Furthermore, as we decided to inquire about their gender despite the prison facility housing only men, we found out that one individual did not identify as male. Likewise, interviewees' relationship status enabled us to get a clearer understanding of their relational network outside of the prison, and how much a strain imprisonment can prove to be on romantic and other relationships.

Section two explores the participants' background and personal circumstances and is one of the most comprehensive segments of the interview tool. The goal was to learn more about the crime they committed and the corresponding punishment, but most importantly about all the multifaceted aspects of their life leading up to the commission of the crime. This part of the interview tool encompasses numerous open-ended questions pertaining to various dimensions of their lives, including family and home life, employment, finances, and health. The open-ended inquiries are often supplemented with an array of closed prompts for the interviewers to follow up on specific topics that may not

have been adequately covered in the participants' narratives. When inquiring about their family and home life, we focused on their responsibilities within the household, ranging from co-habitants to number of dependents.

Additionally, we sought insights into their financial obligations within the family nucleus. Due to the typical demographics of people convicted of drug crimes in Indonesia, we expected that a significant portion of our interviewees would assume the role of primary breadwinners and would experience an inordinate amount of pressure to provide for their families. Hence, it was crucial to gain a comprehensive understanding of their familial circumstances and all the psychological and financial burdens that may derive from these circumstances. It is important to note that operationalising financial precarity and low socio-economic status proved to be difficult due to contextual realities. The high engagement with the underground economy, the importance of familial links for financial support, and overall economic precarity which is to be expected in a sample comprised of individuals charged with crimes which are, at least partly, financial in nature, prevented us from using one single variable as a measure for financial need. Instead, the tool encompasses the following facets, which I will also discuss more in detail in the following section: employment, monthly salary, type of employment (e.g. permanent, temporary, etc.), job title, presence of debts, and dependents.

In Indonesia, informal and temporary employment is notably prevalent (Saget, 2006). This type of employment often provides an income to families and individuals who lack access to stable employment opportunities within the formal job market. While its flexibility might help some access the job market with more ease, its inherent precarity implies a constant lack of financial stability for the workers. Subsequently, we also collected information about interviewees' financial stability by inquiring about their

monthly salary and, critically, whether they deemed it sufficient to cover basic necessities and potentially non-essential expenses.

In assessing health, we started with an open-ended inquiry regarding their physical and mental well-being. Afterwards, we probed into the possibility of drug use, recognising that engagement in the drug trade often stems from substance use, and the need to fund the costly habit. We then investigated the duration of their substance use as well as types of substances consumed, and any past involvement with the law arising from similar drug-related activities. Past experiences of arrest, conviction and incarceration are a key aspect of this research, as they highlight how some individuals keep choosing to offend despite extremely negative past experiences within the criminal justice system, contravening some of the basic tenets of RCT based on sole expected utility maximisation. Literature on the subject has evidenced the role that past experiences play in shaping future risk assessments, arguing that previous encounters with law enforcement should correspond to an increased risk perception (Apospori & Alpert, 1993; Loughran et al., 2013).

Next, we proceeded to ask questions pertaining to their participation in the criminal activity, starting from the moment when they first became involved. It is noteworthy that given the possibility of prior incarceration amongst our subjects for similar crimes, interviewers were instructed to specifically inquire about the *first time* they had committed an act serious enough to warrant a long-term imprisonment. This section investigates their relationship with the recruiter, and how risk was negotiated within that relationship, as well as their perception of the factors leading to their selection for participation in these illegal activities. It was of utmost importance for the success of this research for the prisoners to express all the thoughts, concerns, and emotional states they

experienced during this phase, to assess their state of mind during the decision-making process.

Historically, research based on rational choice frameworks has been focused on formal sanctions, which lend themselves more readily to quantitative evaluation and are moderately stable, at least intra-jurisdictionally. Nevertheless, there is a section of the literature reporting how informal sanctions can often wield a significant influence over decision-making (Grasmick & Bursik, 1990; Nagin & Pogarsky, 2003; Paternoster, 1983). As social beings, we are subject to the persuasive power of the immediate and certain prospect of informal punishments such as social ostracization, which can appear more distressing than the distant threat of official sanctions. Indeed, research has found that people engaging in criminal behaviours have a higher tendency of being present-oriented; this is due to their ease of discounting future sanctions, or their outright inability to even acknowledge the possibility of future punishment (Nagin & Paternoster, 1994). To test the extent to which informal sanctions factored into our participants' decision-making processes, we questioned them about their loved one's awareness of their criminal activity, as well as their reaction to it. Then, we administered three scales on the costs and rewards associated with involvement in the drug trade:[26] legal and illegal work, social costs of punishment (adapted from Loughran et al., 2012, who adapted it from Nagin & Paternoster, 1994), and social rewards of drug selling. The first one inquired about the ease and earnings of the drug trade, as well as the financial threshold at which they would consider a legal job in order to quit the illegal trade. The second scale addressed how important they believed different informal sanctions to be, spanning the spectrum from loss of respect by friends and family, to loss of social mobility, to suspension from legal

[26] These scales were provided by Jeffrey Fagan through personal correspondence with the DPRU and DPP.

employment.[27] Lastly, the third scale assessed the social rewards connected to the illegal activity, encompassing factors such as higher respect amongst local dealers, members of the community and increased ability to afford luxury items, among others.

The fourth section is divided between knowledge and perception of risks, both of which constitute fundamental elements underpinning RCT. The questions first address the participants' awareness and comprehension of basic narcotic legislation, the associated penalties connected, and their personal expectations regarding the punitive measures. As our goal was to understand whether their knowledge of the law had impacted their decision-making process, we explicitly inquired about whether the knowledge of the law had made them hesitate or worry about the decision, change their modus operandi, or take any special precautions to avoid specific sanctions they might have feared. Subsequently, the research tool proceeds to investigate their subjective perceptions of risk across various stages of the criminal justice process, namely arrest, conviction, imprisonment, the prospect of a death sentence, and the possibility of execution. Since my thesis's focus has shifted from capital punishment to long-term imprisonment to reflect the sample's characteristics, I did not include the data from the last two questions among the results.

Classical RCT implies that people who are about to commit a certain crime are acutely aware not only of the law and punishments, but also of the number of individuals who have been sanctioned with a certain punishment for the same crime, and that they will use this knowledge to guide their future behaviour. The underlying assumption therefore is that people charged with drug offences serious enough to potentially warrant

[27] Loughran and colleagues (2012) report an acceptable internal consistency for this scale (Cronbach's α = .68 at baseline).

long-term imprisonment should have gained knowledge of their likelihood of being sentenced to a similar punishment by researching how many people had encountered the same fate. Lacking this knowledge would render quite pointless any potential risk assessment, calling into question the very foundation of such theories. To address this, the present section of the interview tool comprises six items inquiring about the prisoners' knowledge of how many people had been sentenced to death two years before their crime, as well as five years prior, and yearly on average since 2010.[28s]

The tool concludes by addressing the treatment of participants at the hands of law enforcement agencies, recognising that previous research has shed light on inhumane practices that are entrenched within routine policing activities (Goodman-Delahunty, 2016; Styannes, 2013). Specifically, we asked participants what happened during their arrest and interrogation. Furthermore, we inquired about the extent to which their legal rights were respected (e.g. contacting family, accessing health care if needed, postponing one's interrogation if sick), and whether any instances of emotional, physical, and sexual violence had occurred after their arrest. We also wanted to assess their ability to secure legal representation, and to engage in confidential consultation with legal counsel in a private manner, as in the past there have been reports of inadequate legal representation or even defendants not having legal counsel (Yudhawiranata, 2009).

Indonesia is known for its high corruption indexes which contribute to the arbitrary nature of punishment, rendering the presence of a competent defence lawyer

[28] I only report some of the results from this section in passing in Chapter Six, as most individuals reported being ignorant about the numbers. More importantly, the Atma Jaya research team suggested that among those who did respond to these questions with a number or range, it is possible that the respondents randomly chose an answer lest they appeared ignorant. Lastly, we asked them about their level of concern at the time of the crime in regard to a possible death sentence. As the research shifted from death penalty to long term incarceration, these responses are not included amongst the findings.

even more paramount (Transparency International, 2022). To curb the widespread corruption that had been an entrenched practice of Soeharto's reign, in 2003 during the *Reformasi* era the government established two anti-corruption institutions: the Corruption Eradication Commission (*Komisi Pemberantasan Korupsi*, KPK), and the Anti-Corruption Court (ACC). While initially the KPK was not allowed to 'drop' any cases and the ACC had a one hundred percent conviction rate, the 2009 Anti-Corruption Court Law (ACCL) decentralised the KPK and enacted changes which made the ACCs potentially more permeable to corruption (Butt, 2012). This situation is further complicated by the lack of oversight and scrutiny of Indonesian courts, with the Supreme Court itself invoking judicial independence to prevent the Judicial Commission – an institution specifically designed to hold courts accountable – from examining their work (Butt, 2023). Notably, Butt (2023) reports that after the ACCL, more than two dozen cases have resulted in judges being found guilty of corruption, a reflection of both the widespread corruption within the judicial system and the attention the KPK has given to investigating corrupt judges.

Considering the high stakes inherent to drug-related cases, where the difference between imprisonment and a death sentence often hinges on drug quantities that offenders might not even be aware of, and where opportunities for mitigation are limited, it is clear how crucial it is to be able to retain a competent attorney able to argue a possibly death-eligible case in order to ensure a fair process, and a non-terminal outcome. Additionally, due to the substantial number of foreign nationals incarcerated and sentenced to death, coupled with reports of insufficient access to interpretation services, we included specific questions and prompts to cater to the needs of foreign offenders. These inquiries include whether their respective embassy had been informed at the time of

their arrest, and the quality of the interpretation, if provided. As our sample was comprised of only Indonesian citizens, these questions were skipped by the interviewers; therefore, I did not report any data from this segment in the results.

It is worth noting that this interview tool went through several rounds of revisions, guided by invaluable feedback from members of the faculty at the Centre for Criminology, Parvais Jabbar, co-executive director of the Death Penalty Project, external consultants Jeffrey Fagan and Claudia Stoicescu, our partner researchers at Atma Jaya University, and the lawyers at LBH Masyarakat. Each one of these contributions was instrumental in making this tool context-relevant for the Indonesian prison population, and as finetuned as it possibly could be.

Furthermore, to ensure the effectiveness and comprehensibility of our questions, before the main study commenced, the research group at Atma Jaya University conducted six pilot interviews with individuals who had previously been involved in drug crimes. Following this round of pilot interviews, we further revised the tool and paid particular attention to the conciseness and readability of the questions. This was done with consideration for the expected reading level within a prison population and the cognitively taxing nature of long interviews. Finally, before the interviews were conducted, I had an online meeting with the research team at Atma Jaya to ensure the administration of the test would follow the protocols established in the CUREC-2 application and be compliant with all ethical and safety guidelines.

Procedure

Participant selection for interviewees primarily hinged on logistical convenience. The research team from Atma Jaya University explained the age-based inclusion and exclusion

criteria to the prison staff, as well as the preference for individuals serving sentences exceeding ten years, wherever feasible. Nevertheless, it was possible for the prison staff to extend an invitation to potential candidates who had received a lesser sentence in case this proved to be a more pragmatic option due to time constraints and obstacles in accessing individuals convicted of more serious drug-related offences. Anticipating that each interviewer would be able to interview two to three individuals daily, the prison staff typically assembled an average of 16 potential interviewees on each recruitment day (October the 12th, the 14th, and the 18th, 2021).

The screenings and interviews were conducted by individuals holding the following qualifications: two had completed a post-graduate degree (one doctorate, one masters), one was a registered nurse, and one was a certified addiction counsellor, equivalent or supplementary to a bachelor's degree. The latter subset of interviewers had gained more than one year of experience in prison-based research.[29] They were recruited to substitute for Atma Jaya University staff who resigned or were recuperating from an illness at the time of data collection. The presence of different interviewers has the potential to elicit varying responses from interviewees. While it is not possible to completely eliminate biases due to the different interpersonal dynamics, in order to minimise the risk of such biases and ensure that the interviews remained comparable across participants, I conducted a comprehensive online training session with the interviewers. During training, we went over every item in the interview tool and addressed any concerns the interviewers had regarding specific items. Moreover, we discussed the protocol and how the interviews

[29] See https://clinicaltrials.gov/ct2/show/NCT04155320 for more information on the type of prison-based study the researchers had been previously involved in.

would be conducted according to CUREC guidelines, so that interviewers had a clear understanding of their role and of the standardized procedures they needed to follow.

All interviews took place within an assigned classroom. Two inmate staff members were present in the room to facilitate the orderly entry and exit of participants, maintain a record of attendance, carry out sanitisation procedures for desks and equipment between each use, and oversee the distribution of gifts and meals. Interviewees were called into the room and directed to one of the four interviewers stationed at separate desks. In the initial phase, all participants underwent a mental health screening, during which the partner researchers from Atma Jaya University also collected their personal information, including their name, age, and sentence duration. Then, the researchers provided them with a concise study information sheet, which was placed on the seat. They also gave a comprehensive verbal explanation of the research study prior to the screening process. Following the screening, they instructed the participants to wait outside for further instructions while they reviewed and discussed the screening results. In instances where inmates received a borderline or inconclusive result from the screening process, an addiction counsellor re-screened them to make a final determination of eligibility. Those deemed ineligible were informed of the results and, with their consent, offered referrals to the prison clinic.

Eligible participants were escorted back to their initial screening interviewers. The interviewers reiterated the details of the research, emphasizing critical aspects such as the study's objectives, voluntary nature of participation, standards of data protection, and the right to decline audio recording of the interview. They gave participants ample time to read the consent form and seek clarification on any elements they found unclear. Finally, all consent forms were signed and dated by both the participant and the interviewer.

Over the course of the four days dedicated to recruitment, a total of 64 inmates presented themselves and 63 were screened, with one refusing the screening. Among these 63 potential participants, six had screening outcomes indicative of compromised mental health or cognitive functioning. However, only two of them expressed consent to be linked to care at the prison clinic. Ultimately, 57 inmates successfully completed the interview. On average, they completed the interviews in 51 minutes, with durations ranging from 14 to 109 minutes. The mean age of participants was 38 years, while the average sentence length was 9.2 years, ranging from four to 15.5 years. Notably, none of the inmates screened reported having been sentenced to lifelong imprisonment or capital punishment, the latter being the main reason for the shift of the research focus from the death penalty to incarceration. One participant declined audio recording, citing concerns about potential negative repercussions for his parole hearing outcome. As a token of appreciation for their time, we compensated participants with a gift bag comprising a towel, toothpaste, and food items worth five euros.

Procedure for Analysis

After the Atma Jaya team finished conducting the interviews, they transcribed them and translated them into English. They then uploaded the files to a shared drive only accessible to the members of the research team. I downloaded the English files and uploaded them onto NVivo. Then, I created a separate node for each question, and went through all the interviews to assign each participant's response to the corresponding node. Doing so allowed me to see all the participants' answers to a single question. Afterwards, I created a spreadsheet on Excel so that every answer from every participant could be coded in a single electronic document, in light of future analyses. Each interview had been assigned an

identifying code by the researchers at Atma Jaya University to ensure anonymity for the interviewee. I used the identifying codes as a first column on the spreadsheet to represent each participant. Then, each column in the spreadsheet represented a different open-ended question, prompt, or follow-up question. Going through every node in NVivo, I populated the spreadsheet with both yes/no responses, Likert scale responses, and summaries of long-narratives or direct quotations from the participants. While the interviews were qualitative in nature, due to the length of the interview tool and the timing constraints, many of the responses to the open-ended questions were relatively concise. Furthermore, many of the prompts or follow-up questions to initial open-ended questions resulted in brief answers.

Afterwards, I conducted simple frequency analysis to report on the demographic breakdown, and to provide more information on the percentage of the sample that had, for instance, had prior knowledge of the drug legislation, or that had consumed drugs in the past. These pieces of information were used as initial building blocks to integrate with the overarching themes emerging from the more narrative segments of the interviews. It is to be noted that throughout the results, the total number of responses for each question might not always equal 57, as questions were at times skipped by the interviewers, or because the interviewees did not provide an answer to them. Moreover, some questions were conditional to previous responses, only to be asked in the event of a previous affirmative or negative answer, therefore in some cases the number of responses was considerably lower than *n*.

Going back to the longer narratives coded in NVivo, I extrapolated the main themes which surfaced during the interviews, and picked direct quotes which would help illustrate these themes and amplify the voices of the participants by using their own words.

Since one of the key objectives of this research is to amplify the voices of incarcerated individuals, a population often silenced and misrepresented in mainstream narratives, I chose to also include quotes that represent singular, unique views, even if they do not reflect the majority perspective. While the words of these individual participants may not fit in the overarching themes and are not presumed to be generalisable to the population, such an approach highlights the nuance of inmate experience, providing more insights into less commonly discussed aspects of their realities.

While the interviews were quite long, participants did not expand their thoughts on every line of inquiry. Hence, while they provided many details regarding their previous circumstances, for instance, or were keen to discuss specific aspects of their crime, some sections were unfortunately poor in qualitative depth (e.g. knowledge of the law and risk perception).

Lastly, I analysed whether subsections of the overall sample (n =57) had different profiles, to assess whether, based on educational level, financial precarity, type of crime, knowledge of the law, and risk perception, different individuals had had a different trajectory or perception of the risks associated to the criminal activity. In order to differentiate these patterns, I first divided the sample into two groups: those who had only completed elementary school and those who had reached higher levels of education. Then, to create the second group of subsamples, I split the sample between people who had been employed at the time of the decision to commit the crime, and those who had not. I then built the third set of subgroups by dividing the sample into individuals charged with simple possession, and individuals who were charged with dealing, delivering, producing etc., starting from the assumption that people charged with possession for personal use might have had a different background or decision-making process in light of the lighter

nature of the crime and the different social dynamics surrounding the offence. Separately, I also divided the sample according to knowledge of the law, simply testing whether individuals who had been aware of the drug legislation had had a different perception of risk of arrest, conviction, and incarceration. As well, it helped me to analyse whether knowledge of the law had been related to past convictions, previous experience committing overall criminal activities, or similar drug-related offences. Once I split the sample into subgroups, I used *t*-tests to investigate the presence of significant differences in terms of continuous, numerical variables, such as age, sentence length, or number of dependents.[30] Regarding binary 'yes' or 'no' responses, I used Fisher's Exact test, in light of the small sample sizes of these subsamples. Indeed, there were only eight people with an elementary school degree in our sample, as well only seven people charged with simple possession. Consequently, a *chi*-square test would have often resulted in cells containing less than five counts, breaching one of its requirements. Lastly, to compare variables expressed through ordinal scales, for instance the risk assessment five-point Likert scale ranging from very unlikely to very likely, I used the Mann-Whitey U test, reporting the Exact 2-tailed results rather than the asymptotic significance, to better represent the difference within a subsample, despite the small sample size.

As high levels of punitiveness are assumed to impact potential offenders in an equal manner, without providing for idiosyncrasies or individual differences, the categorisation in different profiles will shine a light on which categories of people within our sample might have been influenced in their decision by the prospect of formal punishment and which ones had not. Additionally, they will outline the role of personal

[30] Given the lack of normality in these sample's distribution, I ran Mann-Whitney U tests in lieu of t-tests while comparing many of the variables in these subgroups.

experience with offending, as well as previous contacts with the law, in the role of knowledge-formation.

Now that I have detailed the research methodologies used in the current study, highlighting the importance of conducting mixed-methods research while analysing rational choice perspectives, and outlining the design, ethical considerations, participant recruitment and characteristics, materials, and procedure for administration and analysis, in the following chapters I will report the findings. First, I will discuss the background and personal circumstances of the individuals we interviewed at the time they decided to commit the drug offence. Secondly, I will draw from the interview sections on knowledge of the law and legal punishments to discuss formal sanctions and risk assessment. Thirdly, I will explore the role played by informal sanctions in decision-making. Then, I will discuss how previous experiences of arrest and incarceration might have impacted on decision-making. Lastly, I will analyse separate subsets of the sample to seek evidence of individual-level differences in risk perception, knowledge-formation and criminal trajectories.

4. Personal Circumstances, Motivations, and Pathways

Introduction

Indonesian legislation provides for a double-track system that diverts drug users to rehabilitation instead of incarceration. This diversion implies a qualitative difference between users, who are seen as victims within this framework, and the kingpins and sellers, who instead are considered amongst the worst offenders. This is evidenced by how the President and politicians talk about those involved in the drug trade (see Introduction and Chapter One), and by how drug offenders are portrayed as a great foreign evil whose objective is to weaken Indonesian society. This sentiment is formally inscribed in the National Defence Doctrine book, where drug offences are described as threats against the Indonesian youth aimed at damaging the social capital (Departemen Pertahanan Republik Indonesia, 2007).

This narrative has also been used to justify the retention of capital punishment for drug offences, circumventing the ICCPR Art 6(2) clause which only allows retentionist countries to execute offenders who have committed the 'most serious crimes'. Despite the possibility for diversion, however, reports show that the rehabilitative track is not accessible to everyone and is arbitrarily assigned (see Chapter One). Moreover, the government's assumption that all those involved in the drug trade are guided by malicious intent in a race to extreme wealth ignores the heterogeneity of the personal circumstances which lead people to engage with the drug trade.

In this chapter, I challenge this one-dimensional perception of those involved in the drug trade and aim to provide a more contextualised perspective. In so doing, I

distance drug users from the disempowered position of absolute victimhood and challenge the stigmatising label of 'hardened criminal' from those involved in the illicit drug trade. As we will see throughout the chapter, only a small fraction of individuals become involved in the drug trade to achieve power, fame, or out of their appreciation for the lifestyle associated with organised drug crime. Yet, despite being an exception, they embody the societal imagination of 'the drug offender'.

I therefore endeavour to dispel the reductive common 'knowledge' across Indonesian society that drug offenders are vicious criminals without any scruples. Instead, by shaping the discourse around who they are as individuals and what caused them to first become involved in the drug trade, I aim to contextualise their choices at the individual, familial, community-wide, and societal levels.

Firstly, I will outline the demographic characteristics of our sample of 57 inmates, which will serve as a foundation for a broader discussion on which sections of the population are more likely to become involved in the drug trade, and the underlying reasons for their disproportionate engagement in the criminal activity.

Secondly, I believe it crucial to delve into the personal circumstances of these individuals when they first decided to offend, in order to fully comprehend why they chose to commit the drug crime. Only through a thorough understanding of their subjective contingencies can we gain insight into what drove them to offending and what might have prevented them from committing the crime. A better understanding of their personal circumstances may prove useful for future context-specific policymaking.

Lastly, I will investigate the motivations behind their choice to offend, paying particular attention to the recruitment process, which represents a crucial moment in the decision-making process. By analysing who recruited them, when, and how, I aim to

identify the factors which might have swayed our respondents into accepting a role in the drug trade.

In summary, this chapter seeks to answer three fundamental questions regarding drug offending within the Indonesian context: who are the people imprisoned in Indonesia for drug offences? What are their motivations for becoming involved in the drug trade? Are there common pathways that lead to engagement in this type of criminal activity?

Demographics and Background

To gain a base understanding of the demographics of individuals incarcerated in Indonesia for drug offences, we first asked our 57 interviewees to provide their age, gender, nationality, highest level of education achieved, and relationship status.[31] The majority of our sample fell within the age range of 36 to 45, with individuals between the ages of 41 to 45 being the most represented group (14 out of 53). Only one person in the sample was over 50 years of age, and this represented an 'outlier' in the 66-70 bracket. Overall, 26% of respondents were in their twenties, 34% were in their thirties and 38% were in their forties. It is to be noted that the age of the inmates at the time of the interview does not necessarily represent the age at which they first engaged in criminal activity, which I will explore in later sections.

While Cipinang Prison, where all interviews were conducted, is a male-only institution, three individuals preferred not to state their gender and one person identified

[31] Two of the people we interviewed did not wish to be audio-recorded. Therefore, the Atma Jaya researchers took notes instead; however, they were not able to record every answer in the notes.

as female.[32] It is important to note therefore that our interviewees are not representative of the actual distribution of men and women engaging in drug offences.

Regarding the educational level of the inmates, most had completed high school or received vocational training (66%, 37 out of 56), with an additional eight individuals having stopped after junior high school. Only three out of 56 people had completed some kind of post-secondary education, with one having attended university and two having earned an unspecified post-secondary diploma. A non-negligible number of respondents, however, had only completed elementary school (14%, 8 out of 56). As part of the public investments of the last decades, better infrastructure and access to education has raised the average length of schooling years from eight to 11 years in Indonesia (Sugiharti et al., 2022). This improvement was reflected also in the decrease of the Gini coefficient[33] for education inequality, which went from 0.36 to 0.32 between the years of 1999 and 2005 at the national level (Digdowiseiso, 2010). Currently, twelve years of education are mandatory, starting with six years of elementary level studies, continuing with three years of lower-secondary schooling and a final three years of upper-secondary schooling. However, research found that in rural contexts only 54% of individuals had completed senior high school, while in urban areas the rate increased to 74% (Statista Research Department, 2022), highlighting how a significant portion of the population still does not

[32] While we had initially hoped to be able to include a quota of women and foreigners in this sample, to provide a broader overview of the people who become involved in the trade and their context-specific motivations and pathways – as research has found gendered differences (Daly, 1992; Harry, 2021) – due to the nature of the prison we only had access to Indonesian men, with the exception of one person who identified as female.

[33] Farris (2010) describes the Gini coefficient as a 'summary statistic that measures how equitably a resource is distributed in a population' and states that it is calculated 'from a particular Lorenz curve. It is defined as an integral that summarizes how much the Lorenz curve in question deviates from perfect equitability' (p. 851).

complete compulsory education. As all our interviews were conducted in Jakarta, if we assume that the crimes had also been committed within the same jurisdiction, our sample had a lower average level of schooling, with 66% having completed an upper-secondary education, compared to the 74% found in urban areas of the general population. One of the explanations for this discrepancy is the mediation of poverty on net school attendance, which the Demographic and Health Survey (2017) defines as 'the percentage of school-age population that attends primary or secondary school' (p. 13). They found that only 76% of boys and 83% of girls belonging to the poorest 20% of the country attended secondary school (ages 13 to 17), while in comparison 92% of boys and 89% girls in the 60- to 80-percentile wealth bracket attended regularly (National Population and Family Planning board, Statistics Indonesia, and Ministry of Health, 2017). In conclusion, the people we interviewed had received less formal education than the comparable general population.

Most people were single at the time of the interview (22 out of 55), with an additional 27% of the overall sample reporting being separated or divorced. An equal number of participants (27%) declared being married, instead. Additionally, three individuals reported being widowed. Thus, only 27% of our interviewees had a romantic attachment, while the remaining 73% did not. One factor deserves consideration, when discussing inmates' relationship status: the impact incarceration has on relationships and marriages. The high number of divorces and separations in our sample cannot be attributed to the skyrocketing divorce trends that are commonly reported on in the West. On the contrary, divorce rates have been decreasing in Indonesia, mostly due to the tightening of legislation with the Marriage Law of 1974, requiring Muslim men to appear in front of an Islamic court before the divorce can be finalised (Jones, 2002). However, these findings are consistent with research showing that incarceration significantly

increases the likelihood of divorce (Apel et al., 2010; Massoglia, Ramster, & King, 2011). As this study's aim lies in detangling the complexities of their decision-making processes at the time of the criminal endeavour, we did not want to base our understanding of their familial situation solely on their current relationship status. Rather, we urged them to produce narratives regarding their familial circumstances at the time they first became involved in the drug trade, as I will explore in the following section.

Familial Circumstances: Household and Dependents

In order to assess how the interviewees perceived their familial situation at the time when they were engaging in the drug trade, we asked them to describe their home life before they were imprisoned in an open-ended question.[34]

The first and most prominent theme was the portrayal of harmony and happiness in their family lives, with many people speaking positively of their familial relationships, as expressed by almost all of the following quotes:

> [A]: My family lives in harmony.
>
> ***
>
> [A]: My family is always harmonious.
>
> ***
>
> [A]: Especially before my wife passed away, it was harmonious. I was happy. Honestly, every weekend—Saturday or Sunday—my kids would say, 'Dad, let's go somewhere.' 'Let's go.' Well, all happy and peaceful.

[34] The question preceding the inquiry about home life asked them to describe their life before their imprisonment, without a specific focus (Q. 12, see Appendix A). Some of the responses or quotes reported in this section and the following ones may have been uttered in response to this open question. However, I did not report its overall results because different people decided to highlight varying aspects of their life pre-arrest, with some focusing on their home life, on their job etc. As these are all questions that they were also asked at a later time, I decided to consolidate the few original details offered by the broader inquiry about their past within the relevant sections.

***

[A]: It was a good life, miss, it was a good life.

An interviewee described a particularly idyllic scene: 'We often laughed, talked, and discussed things. Every Sunday morning, we would gather in the living room and talk while drinking tea'. Nevertheless, several interviewees followed their initial positive statements with negative reflections that challenged these idyllic portraits. For instance, the conclusion of the quote 'My family lives in harmony' is 'but I am a burden as a person with HIV-AIDS'; likewise, the second excerpt on one interviewee's family always being harmonious is concluded with 'but we were separated, though'. Moreover, one participant stated that 'At home, everything was good with my family, except that I didn't talk that much with my dad. I was closer to my mum', while another reported said, 'Everything was good with my family, except that I didn't talk that much with my dad'.

Another theme that surfaced was the idea of a normal life despite the criminal endeavour, with one person saying 'It was ordinary. I was mostly out and about and trying out new things and spending time to hang out', and another stating, 'It was ordinary, working, taking care of the family, the children'. An interview highlighted the routine aspect of the criminal activities by saying, 'I used daily, bought the stuff, entertained my family, all that. […] Early in the morning, I would sell [legal item], and then I would sell— […] I would come back to my boarding room and wait for a pick-up'. Financial difficulties were however mentioned by some interviewees, at times in connection to the need of providing for one's family, as evidenced by the words of these respondents:

> [A]: We lived hand to mouth. I used to be a motorcycle taxi driver. I had financial issues.
>
> ***

> [A]: I was part of the less fortunate. My daily income would be spent on the same day. My income was like that.
>
> ***
>
> [A]: initially worked as a security guard, which didn't pay well. My wife was fussy about it, and I had to look for a side hustle. I was offered to get into the drug trade. Well, I had to do it.
>
> ***
>
> [A]: When I look for work, there is a screening and health check-up. I have responsibility to provide for my wife and child. Finally, I took a shortcut even though my life was decent.
>
> ***
>
> [A]: I was financially responsible for the family.

The picture that emerges of these interviewees challenges the stereotype of the hardened criminal only driven by personal gain and incapable of caring for others. Instead, these findings shed a light on the complex and varied personal circumstances of those incarcerated for drug offences in Indonesia, highlighting the many factors that might have contributed to their involvement in drug offending.

To further investigate whether they used to be a primary provider for their loved ones, and the level of dependency from family members, we inquired about their living arrangements, number of legally employed individuals within the household, the number of dependents (overall and child-dependents) and whether they were ultimately financially responsible for the people they lived with.

The results revealed that the vast majority of the respondents used to live either with their partners (12), family members such as parents and siblings (19) or both their partners and family members (14). These living arrangements reflect a common trait of Indonesian society, where several generations often live in the same household even after

marriage. Likewise, independent living is not the norm (only reported by 8 people in our sample),[35] as unmarried adults usually still live with their families. Indonesian households typically contain around four members; however, there has been a downsizing trend (from 4.87 members on average in 1971 to 4.27 in 1995), which Jones (2002) attributes to a decline in fertility and an increase of young individuals deciding to live together in shared accommodations rather than with their families. Still, the shrinking of household size has been partially offset by increased longevity and the fact that the average age of marriage has also been on the rise, leaving most unmarried young men and women living with their families for longer (Jones, 2002).

When we inquired about the number of legally employed individuals within their household at the time when they were contemplating joining the drug trade, the interviewees showed some confusion in differentiating legal and illegal unemployment, as exemplified by the following two excerpts:

> [Q]: How many people worked legally in your family at that time? Legal work as in working without violating the law, for instance, working in an office, as a waiter in a restaurant, or having a business.
> [A]: None.
> [Q]: Oh, none. What did your parents work as, if I may know?
> [A]: As a construction worker.
> [Q]: Okay. A construction worker is a legal job.
> [A]: Legal?
> [Q]: Yes. What did your mum do?
> [A]: She has a small business (re: selling, but not drugs)
> [Q]: That is also legal.
>
> ***
>
> [Q]: Okay, how many people worked legally in your family at that time?
> [A]: Only me.
> [Q]: Okay.
> [A]: Yes, I worked like that to provide for my family.
> [Q]: I mean, legal work is legitimate work.
> [A]: Everyone worked as a security guard.

[35] One additional respondent reported living with a friend.

[Q]: Oh, everyone worked as a security guard?
[A]: Yes.

The Indonesian economy heavily relies on informal, non-contract-based employment, making the line between legal and illegal work more blurred than in other countries where formal jobs are more prevalent (Saget, 2006). The results from our sample show that 26% of respondents (14 out of 54) used to be the only individual in the household with legal employment. Only two people lived in households in which their partner was the only person legally employed, while four stated that both they and their partner had had legal jobs. Another 26% reported that one or multiple family members had been legally employed at the time; finally, a third of respondents (31%, 17 out of 54) indicated that everyone in the family had had a legal job, or a mix of family members and themselves had been legally employed. As I explore further in the following section on employment status, 30 respondents reported being employed at the time of their arrest, which is fewer than the number of interviewees who claimed to have worked legally within their household at the time of their arrest. Specifically, 14 individuals claimed to have been the only legal workers, four reported both they and their partners being employed and 17 stated that both they and their family members had been legally employed, adding up to a total of 35 individuals who had previously reported having been employed. This raises questions about their understanding of legal employment and whether five individuals might have erroneously reported illegal employment while answering this question. Nevertheless, most inmates appeared to have been surrounded by gainfully – and legally – employed family members, who could have exerted a positive influence against a criminal career. Given that a significant portion of crime is committed by a small minority of families, especially when socio-economic status is a mediating factor, one would expect drug offences to involve multiple household members (Farrington & West,

1990; Farrington, 2011). However, as we see in the recruitment section below, only a few individuals became involved in the drugs trade through recruitment by family members.

A significant portion of the sample, 81%, reported having dependents. On average, our interviewees had 4.3 dependents overall, with 2.2 being children. Of the 43 individuals with dependents, 33 had at least one child dependent, although we observed outliers such as two individuals with seven dependents, one with eight, and one with 12. The latter reported that out of these dependents, eight had been children. If we were to exclude this datapoint due to its outlier status, the average number of underage dependents would still be 2.03.

Furthermore, 68% (34 out of 56) reported having been financially responsible for the people they had lived with, with an additional three people stating they had been partially responsible. This is noteworthy, because I previously described both the communal living conditions of most respondents and the number of legally employed individuals in each household. I found that, in most cases, the interviewees had worked legally together with other family members, or that other family members had been the sole legal workers. It is therefore interesting to discover that a majority still felt financially responsible, despite the presence of legally employed individuals in most households. The three individuals who reported having been only partially financially responsible for the people in their household explained that they would provide for some of their loved ones, but not all of them, or that they would send money only upon request.

Overall, the image these interviews portray of the familial background of Indonesian drug offenders is one of harmony, albeit challenged by their involvement in the drug trade, as well as health issues and separation after the arrest. Importantly, as most individuals in our sample had been the main providers in the families and had been

financially responsible for numerous dependents, it becomes clear how this aspect of their background might have exerted a significant influence in their criminal decision-making. These results challenge the stereotypical image of drug offenders as individuals solely driven by personal gain. Moreover, being able to provide for one's loved ones has an inherent emotional valence, which, as described in Chapter Two, might skew decision-making processes towards relying on 'hot cognition', leading to decisional outcomes which can go against the individual's long-term well-being.

Work and Finances

Our first inquiry on the participants' employment status was an open-ended question to describe their work life prior to arrest. However, most responses reported their job title without elaborating on their work conditions or other reflections on their employment. Some did express positive opinions, such as a scrap collector who appreciated the low risks associated with his job, while others mentioned some difficulties, as portrayed in the following quotations:

> [A]: My job was good. I opened a shop selling [item]. It was enough for daily needs but as a shop, there was a day without any customers.
>
> ***
>
> [A]: I was a leader, oh wait, a supervisor. [...] It feels like my presence was a nuisance for one or two coworkers.
>
> ***
>
> [A]: Before I got married, I used to go to discotheques a lot, and I had sold [drugs] like ecstasy at that time. I stopped everything when I got married in [year]. I started going to the market again, because it's impossible to give [illegal] money to my child and wife. [...] I started out in the market. Back then, I didn't know the roads that well. Eventually, I found a shop which sold excellent and in-demand goods. That was when things started looking better. At that time, I brought my family to Jakarta, including my younger siblings and my relatives. What would they do in the

> village? It was better to go to Jakarta. You can bring some money home. I started from zero in [year]. I didn't have any money. Because of my life in [town name], people trusted me, and I could get goods without capital. That was life in [town name]. You didn't need a lot of capital to start with as long as there was trust. I could get goods to sell. I started having a career and the business started to take off. I could earn 8 million [Rupiah] a day. [...] My wife died, and I got into drugs again. [36]

A slight majority of people (30 out of 55) reported being employed at the time of their arrest. Considering the flexibility that the informal economy offers, but also its inherent precarity, we wanted to assess whether they had been in a condition of financial stability; for this reason, we further inquired about the type of employment within the following categorisations: permanent or contracted work, temporary contracted work or work with no contract, or entrepreneurs. I found an almost equal split between the number of people reporting having been in a permanent position and those reporting temporary or no-contract employment (12 and 13 respectively out of 28);[37] only three people reported having been entrepreneurs. These results are in line with an employment type breakdown offered by Saget (2006), who states that 'self-employment is the dominant form of employment in Indonesia, accounting for 44.3% of the total. At the same time, regular wage employment represents 30.3% of the total employment, while casual wage employment is far less widespread (7.1% of the total employment). However, the share of unpaid workers is surprisingly high, as 18.3% of workers are reported to be unpaid' (p. 5). Saget's (2006) findings concerning almost one in five Indonesian workers being unpaid could suggest either a high frequency of unpaid internships or training periods, a high

[36] Due to the lack of narratives and details in the answers to this open-ended question, I could not extricate any themes related to employment. However, other questions in this section of the interview tool allowed me to illuminate their employment circumstances, which are described in the following paragraphs.

[37] I included individuals with year-long contracts within the 'temporary contracts' category, as their employment could be terminated every year without the stability and safety that long-term contracts offer. Two further individuals did not report the type of their employment or were unclear in their responses and were therefore excluded from the final tally.

level of tax evasion, or a different conceptualisation of employment. For instance, it could reflect those individuals who help family members with their job without expecting pay, as they will be nonetheless contributing to the final salary received by the main earner in the household.

We then asked the respondents to provide more details about their jobs, which I classified into twelve different categories. The most frequently represented occupation was driver, with a majority of people specifying having been a motorcycle or car taxi drivers. Moreover, several people who stated that they had had other occupations said that they had previously been delivery drivers. This finding is unsurprising, given how online taxi and delivery services such as Gojek, for instance, have 29.2 million monthly active users in Indonesia, with the organisation offering work to two million drivers across Southeast Asia (Gojek Statistics and User Counts, 2023). Another popular taxi and delivery service, Grab, boasted two million riders in Indonesia alone in 2020 (Novianto, 2023). Delivery work might also be an easier cover for drug offending since drivers travel throughout the city, wearing 'uniforms' that allow them to 'disappear' within the urban crowd, conducting activities that are not dissimilar to what the drug trade would require of them. Routine Activity Theory (RAT) would be a particularly apt framework to explain the high frequency of delivery drivers amongst the participants. According to RAT, crime occurs at the intercept between motivated offenders, suitable targets, and lack of guardians (Cohen & Felson, 1979). An article published in the Asian Labour Review highlights some crucial changes in the delivery work industry which might have precipitated the participation of the drivers into the drug trade, effectively motivating potential offenders in a field where lack of guardianship is already widespread due to the mobile nature of the job. It reports:

> In 2018, when Grab had a 'money-burning' strategy to attract drivers as well as customers (a period lasting from 2015-2019), the average daily gross

> income of Grab drivers was 458,093 rupiah (29.73 USD [...]). Drivers' earning significantly decreased as the 'money-burning' period ended. The most drastic decrease was during the COVID-19 pandemic, from an average gross income of 273,746 rupiah (17.77 USD) per day in February 2020 to 85,085 rupiah (5.52 USD) in April 2020. After this post-COVID-19 new normal period was implemented in Indonesia, Grab drivers' income did not increase significantly (Novianto, 2023).

As a consequence of the reduction in payment, Grab drivers started increasing their working hours, going from an average of 12.21 hours in 2018 to 13.24 hours in 2020. Consequently, 73.85% of workers experienced burnout and fatigue (with some also involved in road accidents, due to their poor physical health) (Novianto, 2023). It is therefore not surprising that such a job could tempt a person to seek additional sources of income, even beyond the bounds of legal work.

The other most common occupations of our interviewees had been shop-owner (four respondents) and office worker (four respondents), followed by employment in the security business, as parking attendants and in the hospitality field (three interviewees for each of these occupations). The remaining people in our sample had been employed as managers (2), customer service personnel (2), scrap metals collectors (2), factory workers (2), civil servant (1) and an employee in a company (1). Overall, the interviewees appeared to have occupied the lower to middle strata of the employment hierarchy.

When analysing their financial situation, I classified their responses to the initial open-ended question into the following categories: not enough (money), ups and downs,[38] just enough to get by, and more than good. Since these typologies were synthesised from more discursive answers, the respondents sometimes mentioned their drug profits as a

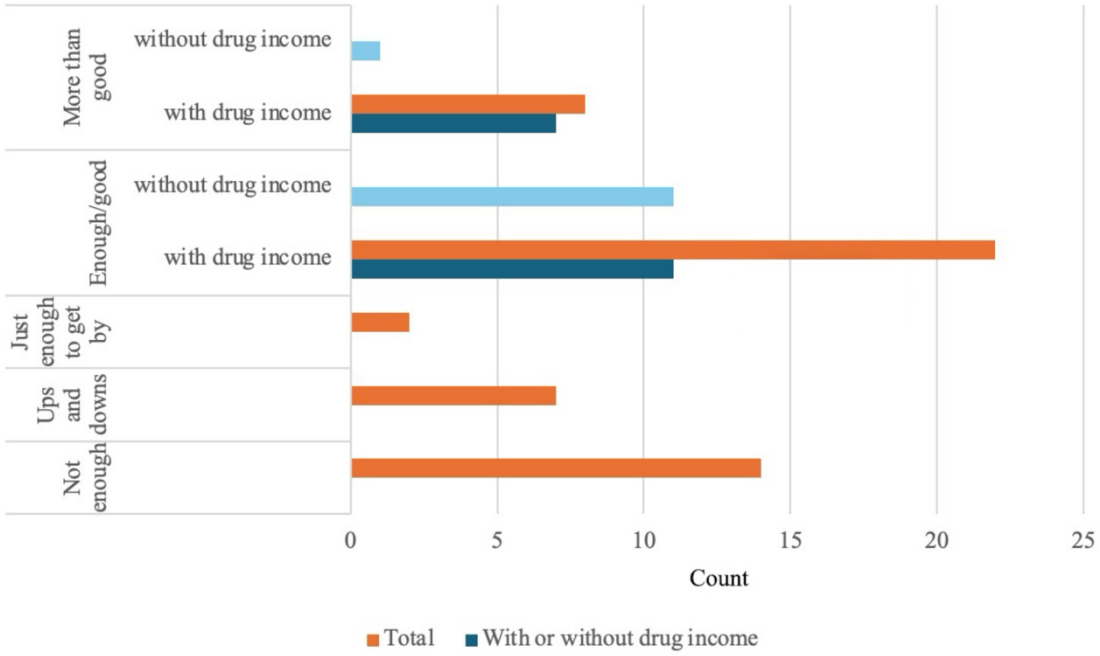
[38] I categorised as 'ups and down' all the responses mentioning unstable earning patterns, with periods of sufficient funds alternating periods of poverty. This precarious situation was mostly due to work availability within our sample (e.g. 'Sometimes it was normal, sometimes it wasn't. Depends on the work').

reason why their finances were really good (as seen in the following three excerpts), while others differentiated between their situation with and without the drug income.

> [Q]: How much money were you making before you went to prison—in a year?
> [A]: I couldn't calculate how much, miss.
> [Q]: What about monthly?
> [A]: Same thing. For instance, every day, I could get 45 million. That was possible.
> [Q]: Oh, I see. But you could get 40 million?
> [A]: Oh, no. It was only 10 or 15.
> [Q]: 10? How many times in a month to get 10 million?
> [A]: In a month… Well, in a week, I could do the pick-up at least once.
> [Q]: Once a week.
> [A]: I could get up to 15 or 17 (re: million) in a week.
> [Q]: Oh, okay. So, in a month, you could get around 50 (re: million).
> [A]: Uh uh.
> [Q]: Was that enough to fulfil your basic needs?
> [A]: More than enough.
> [Q]: What about from [legal item] and parking?
> [A]: The money from [legal item] and parking was given to my parents. […] As for the drug money, I used it for my own happiness and to buy furniture too.
>
> ***
>
> [Q]: Now, how were your finances at that time?
> [A]: It was sufficient.
> [Q]: Sufficient. If I may ask, how much money did you make before getting arrested the year before? And the monthly.
> [A]: Work?
> [Q]: From your salary and dealing drugs.
> [A]: The legal work from the restaurant per month was around USD 400, while from drugs it was almost USD 700.
>
> ***
>
> [Q]: Okay, was it [salary] enough to afford basic needs like food, household needs, electricity bills? Was 2.5 million [Rupiah] enough?
> [A]: No.
> [Q]: Did you have money left over each month to buy luxuries and non-necessities?
> [A]: Yes, if it's from drug money.

Figure 1

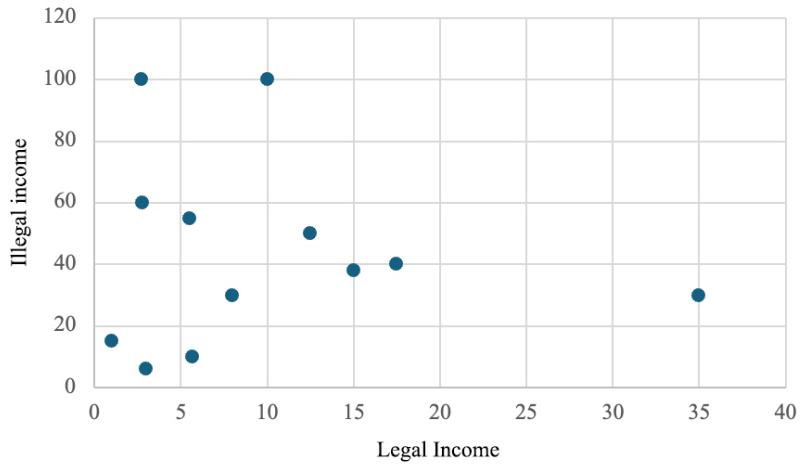
Financial situation



The results are summarised in Figure 1, with the dark blue bars representing the number of people who said they had only been making enough money or more than enough due to their involvement in the drug trade, while the light blue bar represents those who stated making enough or more than enough money through their regular legal employment. In total, 12 individuals specified the amount of money they used to receive from their legal employment and their illegal dealings. To assess whether people with low legal income may also have had lower illegal earnings, or whether their illegal earnings had 'made up' for the scarcity of legal income, and likewise whether people with a higher legal salary may had instead relied less on illegal earnings, I endeavoured to conduct a Pearson correlation analysis, with bootstrapping to account for the small size of the sample. However, the sample did not meet the linearity assumption, as visible in Figure 2.

Figure 2

Relationship between legal and illegal income of the twelve interviewees who reported both.



Note. Numbers represent millions of Indonesia rupiahs earned in a month.

In order to gain a deeper understanding of the financial stability or precarity of the participants, and in light of the number of their dependents and overall sense of responsibility for them, we asked about their ability to afford both basic necessities (such as rent and food) and some non-necessities or luxuries.[39] I made sure to differentiate between their earnings and financial stability derived from the drug income versus legal employment as some individuals conflated the two. Overall, 33 people out of 53 reported having been able to afford basic necessities relying solely on their legal earnings, with a further two people saying they had only been able to afford them sometimes. Nine respondents mentioned that they had had access to basic necessities only due to the drug income, implying that without it they would have joined the other nine individuals who claimed they had been unable to afford them altogether. Regarding non-necessities and

[39] While we did offer examples of necessities to the interviewees, we did not do so for the luxuries, as we agreed that different people would perceive different items or services as luxuries, and it would be unwise to lead the respondents to only think about specific categories if we want to get a better understanding of what constitutes a non-necessity as well.

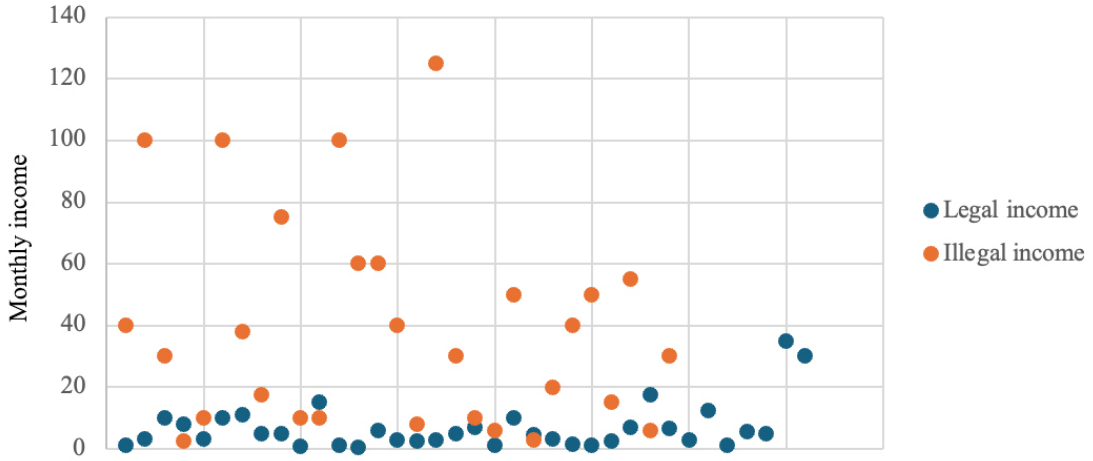
luxury items, there was a 50-50 split between those who could and could not afford them. Out of the 26 people who claimed they could buy luxuries, though, two stated that they had not actually bought anything unnecessary, while four specified that they could have only bought non-necessities because of their drug income.[40] Despite the fact that at least 18 people had not been able to solely rely on legal employment to meet their basic needs, only eight people out of 50 reported having been in debt. This portrays an interesting situation, in which the initial hypothesis of abject poverty being the leading cause of drug offending is only partially supported. I believe it necessary then to call forth the ideas introduced in the theoretical framework chapter of situating these criminal activities within the current post-modern, late-capitalist stage of human society in which material gain is a core value and a prerequisite for perceived self-fulfilment. It is for this reason that among the conclusions I will exhort future research to investigate the role played by 'relative deprivation', as a measure of the degree of financial disadvantage perceived by individuals in comparison to their peers, even in the absence of that abject poverty which I had expected to find more generally within the sample.

Finally, to get an objective measure of their financial status, we asked them how much money they had been making on a monthly basis in the year prior to their arrest and imprisonment. As many of the participants had been involved in the drug trade for an extended period of time before their arrest, some reported both their illegal and legal income, while others reported only one of them. Figure 3 represents the legal and illegal

[40] Since on many occasions the respondents did not clarify whether their ability to afford necessities and non-necessities depended on their illegal activity, these results might not be an accurate representation of their financial situation before their involvement in the drug activity.

Figure 3

Legal and illegal income.



Note. Numbers represent millions of Indonesian rupiahs.

earnings, revealing that the drug trade proved much more lucrative than legal employment.

On average, the interviewees' legal income had been IDR 6.81 million a month, which decreased to IDR 5.30 million a month if we exclude the two outliers. In contrast, their illegal earnings had averaged IDR 39.34 million monthly,[41] over seven times their legal income.[42] As the average monthly salary in Jakarta is IDR 8.66 million (Horizon, n.d.), this would make our interviewees amongst the least privileged within their

[41] It is worth pointing out that the illegal income results only pertain to those interviewees who had been producers, sellers, couriers etc., and not to drug users.

[42] When an interviewee did not specify the source of the salary, I included it amongst the legal earnings as the question asked them to report their legal profits. When a person mentioned a range to describe their income, I used the mean. When they reported a total and mentioned it including the profits from the drug trade, I categorised the total as illegal earnings, as it was not possible to separate the legal and illegal income, and in consideration of the significantly higher volume of illegal earnings amongst the individuals in the sample.

geographical context. This result is consistent with literature showing a positive correlation between low socio-economic status and higher crime rates (Braithwaite, 1981).

Health

We believed it necessary to inquire about the interviewee's health circumstances, including potential drug use, to fully comprehend the contextual reality of their decision-making processes. To the open-ended question regarding their overall health, both physical and mental, at the time of the decision-making process only one respondent believed it had been 'very good'. However, 32 out of 50 interviewees said that it had been 'good', and seven more simply stated that it had been 'okay'; a final 20% reported that their health had been 'bad', with one person specifically mentioning their physical conditions and three attributing it to their mental health struggles. One interviewee for instance said that his mind had been 'messed up, blank. My mind was everywhere', and another stated, 'Well, there was an issue with my mental. If you used too many drugs, your mind would start to get all over the place'. This is one of the few instances in which a connection was made between negative health-related outcomes and drug consumption. The following excerpts also report other mentions of negative health outcomes due to drug consumption.

> [A]: I was not physically well, especially die to the drugs' side effect.
> [Q]: What were your health concerns?
> [A]: I coughed all the time.
> [Q]: Coughed all the time.
> [A]: Uh-uh.
> [Q]: And then?
> [A]: I didn't have the appetite to eat.
> [Q]: No… To eat.
> [A]: Uh-uh. I had trouble sleeping and didn't get enough sleep.
> [Q]: You had trouble sleeping.
> [A]: Yes.
> [Q]: Anything else?
> [A]: Eh, just that.
> [Q]: Just that. What about your mental health?

> [A]: As for mentally, I easily felt paranoid.
>
> ***
>
> [A]: I coughed blood. I think it was because I often used [drugs]. I used it thrice a day, just like people who take medicines. I'm telling you the truth, the reality.

With the exceptions of the quotations above, while people were transparent about their drug use, most of them did not cite it as a cause for their poor health. On the contrary, several individuals spoke of their drug use in a positive manner in connection to their health, even to cope with HIV-AIDS or alleviate symptoms.

> [A]: The marijuana helped me a lot, Miss, for me as someone with HIV or AIDS, yes, it is prohibited by the government, but it helped me a lot. Yes, my immunity raised thanks to the marijuana.
>
> ***
>
> [A]: I consume, well, opiates, methamphetamine, too. In doctor's terms, those are sedations, to make the virus in the body dormant.
>
> ***
>
> [A]: Well, if I did not consume [drugs], I would be weak and sleepy all the time.
>
> ***
>
> [A]: I was only sick when the stuff wasn't available. I would get headaches. Ouch…
>
> ***
>
> [A]: Well physically because I'm an active meth user, in the next 3 years, I won't get sick.
> [Q]: Mmmh.
> [A]: Because we (unclear) sometimes I would get unwell a little, but after a little snort, I would get cured instantly.
> [Q]: Okay. So you're super fit, I guess?
> [A]: Not really super fit, but what I mean is for 2-3 days, as active users, I can eat, can sleep. But if (unclear) but I also consume sedatives like Dumolid and Riklona.
> [Q]: But even though you consume sedatives, your mental health is fine?
> [A]: Yes, my mental health is fine. I only get scared sometimes when I use in my boarding house. Scared of being caught [by the police].

HIV prevalence is dramatically high in Indonesian prisons, mostly due to the astronomic rates of injecting drug users; a report found 22% of inmates in Jakarta and 56% in Bali to be seropositive. Prison environments themselves appeared to have a significant impact on the health of our participants, with some interviewees reporting contracting HIV while incarcerated. According to Nelwan and colleagues (2009), several obstacles stand in the way of safe needle usage or preventative measures against transmissions of HIV-AIDS inside incarceration facilities. Namely, a limited budget to develop a comprehensive programme, poor sanitation and poor overall health of the inmates, stigma surrounding the disease (especially amongst the prison staff), and the security challenges of implementing a clean needle initiative.

In order to assess the incidence of drug usage among interviewees, we asked them 'Were you using drugs at the time of the arrest that led to you being in prison?'. This was particularly important as it allowed us to better understand whether they had been living with a drug dependency at the time of the commission of their crime, and whether the latter might have potentially been committed while in an intoxicated state. The majority responded affirmatively (44 out of 53), although only ten had previously gone through forced rehabilitation.[43] As introduced in the theoretical framework chapter, substance use has been consistently associated with lack of self-control and the personality trait of urgency (Gottfredson & Hirschi, 1990; Whiteside & Lynam, 2003; Fischer & Smith,

[43] According to Law 35 of 2009, judges can decide to divert drug users from imprisonment to forced rehabilitation. This double track system is meant to offer a rehabilitative pathway to those who addicted individuals who are considered victims of the drug trade. While the government has invested considerably in forced rehabilitation programmes, only 6% of people who could benefit from them are sentenced to it (see Chapter Two for a more detailed discussion on the complexities of forced rehabilitation). It is noteworthy, however, to point out how only people convicted of drug use, and who are clearly addicted can be diverted to the rehabilitation pathway. The fact that only ten individuals in our sample had been previously sentenced to forced rehabilitation could either point to a majority of interviewees not being addicted to the drugs in a blatant enough way to warrant court-mandated rehabilitation, the high incidence of other drug-related crimes aggravating the drug usage, and the overall inefficacy of the system to target and rehabilitate drug users, of which there is ample evidence.

2008). As drugs affect and disrupt the normal functioning of dopamine receptors, they can overwork the limbic system, which in turn can impact decision-making (Buckholtz, 2010). Moreover, the *insula* has been found to be responsible for alerting drug users of their urge to consume a substance, as well as for influencing decision-making to re-establish a homeostatic state which is deemed favourable by the individual (Naqvi & Bechara, 2009; Xue et al., 2010). It follows that having been under the influence of drugs during the decision-making process or having lived with a drug dependency at the time, might have reduced the individual's ability to make a rational choice aimed at maximising their expected utilities.

Criminal History

To conclude this first section of the chapter dedicated to exploring the personal circumstances of the individuals in our sample at the time when they were considering whether or not to offend, I will present a brief overview of their criminal histories. It stands to reason that previous interactions with the criminal justice system and incarceration experience would have increased the interviewees' knowledge of the relevant legislation and informed their own risk assessments, which are important factors when considering criminal decision-making. However, as some of our interviewees had already journeyed through the criminal justice system prior to the conviction for which they were imprisoned, it is helpful to outline their past involvement with the illicit drug trade to fully understand their pathway into the most recent criminal act, as well as the related criminal decision-making processes.

I will start by detailing the age at which they first became involved in the drug trade, as well as the age at which they began engaging in the criminal activity that led to

their current conviction. Interestingly, most people in our sample started their involvement in the drug trade between the ages of 15 and 19; with 20- to 24-year-olds being the second most common age range and 10 to 14-year-olds, the third. These results highlight how criminal engagement within the drug trade had started very young for most interviewees. This point is extremely important, as we have seen in Chapter Two that the areas of the brain responsible for high executive functioning are not yet developed at that age, leading to risky decision-making guided more by emotion than rationality (Blackemore & Choudury, 2006). The results change towards more mature ages when considering the second question regarding the starting age for their most recent criminal drug-related activity. In fact, while the 15- to 19-year-old category is still the most populated (11 out of 51), the rest of the responses were spread over the categories ranging from 20 to 39 years of age, with nine in the 25 to 29 bracket and eight in each of the following classes: 20 to 24, 30 to 34, and 35 to 39. What we can extrapolate from these results is that while most of the interviewees in our sample had become involved in the illicit drugs trade quite early in life, many had continued into at least their early adulthood. This is confirmed by the responses to our question on the length of the criminal activity. Out of 54 respondents, over half (28) reported a one to five years long engagement in the trade, and a further 11 an even longer involvement of six to ten years. Only seven individuals reported involvement for less than a year. Indeed, when we inquired about their past involvement in similar activities, 31 out of 54 respondents stated that the crime they are currently convicted of was their first drug crime. This number does not account only for those who were apprehended during the early days of criminal activity, as it mostly speaks to the longevity of drug offences. Still, few people had managed to be active in the drug trade for over ten years, with two people in the 11 to 15 years bracket, three in the 16 to

20 one, a further two in the 21 to 25 category and lastly, and one person who had participated for over 30 years.

As previously reported, 31 interviewees claimed that they were currently imprisoned for their first drug crime, leaving a remaining 23 individuals who had previously committed drug offences. Notwithstanding, when we inquired about their previous convictions, only 12 reported being convicted for the same crime as their current one. These results highlight how, despite their middle- to long-term engagement in the drug trade, only a fraction of the interviewees had already experienced a conviction and incarceration period for the same crime. This could speak to their ability to bribe their way out of an arrest during their criminal career and their overall skills in avoiding detection. Indeed, several individuals said that they had been caught in the past and had been able to secure an immediate release by bribing the officer, or after only spending a couple of days in jail. This calls into question their ability to make assess their likelihood of arrest, conviction, and incarceration (see further, Chapter Five). Moreover, if we expand the question to include all criminal activity, both drug-related and not, the proportion of people who had a previous conviction raises to almost 50% (25 out of 54). It is to be noted that in a sample in which a vast majority of interviewees has a history of drug use, people might have had previous convictions related to the drug trade, but still different from their current one due to their different role within the drug network. In summary, a drug seller who responded 'yes' to overall prior convictions could have still answered 'no' when asked about previous convictions for the same crime they are currently serving time for if the prior conviction had been for drug production or drug possession for personal consumption.

In conclusion, nearly half of the interviewees had been previously convicted and a significant portion (23%) had been convicted of the same crime they are currently serving time for, indicating a failure of the rehabilitative aim of the incarceration apparatus. Even more noteworthy, their previous conviction had not been sufficient for them to rationally assess their chances of apprehension as significant and risky enough to desist from the criminal activity. In summary, prior convictions had not deterred them from further involvement in the drug trade. These themes will be explored in greater depth in the upcoming chapters.

Most Recent Crime

As we also sought to gather an in-depth understanding of their criminal history, we believed it to be important to investigate the specifics of the crime they are currently serving time for. This approach allowed insight into the distribution of drug offences within the prison population, the drugs most frequently sold or consumed, and typical length of incarceration. By analysing this data, I was able to better comprehend the drug trade and the criminal justice system's response to it within the Indonesian context.

We asked the participants to both describe their crime and state which articles they had been charged with, cognizant that sometimes people might be charged with additional articles that do not reflect the actual nature, or intent, of the criminal activity. Through their descriptions of the crime, two main arrest dynamics emerged. The first involves being arrested while on a delivery, either due to a tip from a previously arrested individual or to police monitoring.

> [A]: I stored, I picked up and delivered. I would deliver to whomever my boss directed me to. [...] One day I delivered to a customer who was already monitored by the police.

***

[A]: A friend buys, so I service. Meet up, at a park. I wanted at the park. Apparently, it was the police.

***

[A]: It was a new customer – a recommendation from a friend. As it turned out when [inaudible] they outed me (re: giving information as an informer).

***

[A]: My boss ordered raw [drug] goods via a [social media] account, but apparently that account was already confiscated by the police. The money was already transferred, then the package was delivered to my house in [name of region]. I went home and there were already three police officers in my house. They were already talking to my parents, who had told them that I worked in [place of work] and that my [family member] had [illness]. Apparently, they were already in my house for more than half an hour, and my parents had revealed a lot unknowingly. So after I went home, I just cooperated with them because they threatened to bring me to my [family member].

The second dynamic instead involves someone else in the network being apprehended before them and leading the police back to the interviewee.

[A]: One of my friends was caught first. The person was then interrogated by the police.

***

[A]: I asked someone to buy meth for me. This person was arrested, then this person brought me into it.

***

[A]: As it happened, the person who was going to give me the stuff was already arrested before me.

***

[A]: Oh, I was home at that time, and my friend was already caught before me. That affected me as I was taken to the police station. The police asked where the stuff was. As it turned out, my friend had informed them about the location of the stuff. 'Here, I'll show where it is,' and the stuff was weighed 11 kilograms. After that, I was taken to the precinct and got interrogated.

***

> [A]: Apparently the person to whom I was supposed to deliver drugs was already arrested.
>
> ***
>
> [A]: The person who bought [drugs] from me was caught and was questioned by the police. The person said that they got the drugs from me.

This situation often saw buyers being the first point of contact for the police, making them the weakest link in the chain.[44] Furthermore, another noteworthy theme which surfaced from the narrative descriptions highlights the presence and importance of recruiters within the network; these individuals, who hold authority over the couriers, guide their movements on the ground, while at the same time minimising their own personal risk by staying in the shadows while their couriers expose themselves to higher degrees of risk.

Regarding the distribution of the charges, the results show that 91% of interviewees had been charged with Art. 114, concerning 'selling, buying, receiving, brokering the sale and purchase, exchange or give Narcotics classified as Category I' (Law No. 35/2009). Second most frequent in our sample were convictions under Art. 112 (possession), with 66% of participants being charged with that. Surprisingly, only 8% of inmates had been charged with Art. 132, for conspiracy with other people, despite the presence of several individuals in their network.

[44] When we asked them to describe their crime, we opted for open-ended questions ('What were you convicted for?' and 'Describe what you did to be convicted for that'), which produced a wide variety of responses. They ranged from people simply saying, 'I was selling ecstasy', to others discussing how they had managed to reduce their sentence through various means. Some people talked about their motivation, and some just enumerated which articles of the criminal code they had been charged with. For this reason, while the main two themes presented in this chapter offer an accurate overview of the stories of those who provided more detailed descriptions, they might not be exhaustive due to the varied nature of the rest of the answers.

It is important to point out that three people out of the 57 we interviewed claimed innocence. In fact, when we inquired about their knowledge of the criminal activity, they responded saying that they had been unaware, and an additional two reported having been only 'partly' aware of the criminal nature of their actions. In regard to the latter cases, one of them had not realised that the amount of drugs he had been carrying would result in a charge for both possession and sale of narcotics; the other had only found out about the drugs after the delivery had taken place, when he had opened the package. Nevertheless, this last interviewee also mentioned having previously conducted drug deliveries, and still choosing to complete this latest delivery once he discovered drugs in the package he had been carrying, hence the partial knowledge.

Since the length of imprisonment is dependent on the *type* of drug carried as well as its weight, we thought it necessary to inquire about their knowledge in that regard. Only four individuals out of 53 stated that they had not known the type of substance involved; they were the same people who had claimed innocence and one of those who had claimed partial innocence. The vast majority (38 out of 54) committed amphetamine- or methamphetamine-related crimes. This is consistent with regional consumption trends, which have seen a shift from opiates, popular in the 1960s-1970s, to 'uppers' in the 1990s, especially a type of methamphetamine named *shabu shabu* or *sabu* which is currently one of the most frequently used drugs (Porio & Crisol, 2004; UNODC, 2023). Indeed, in the Foreword to the UNODC 2023 report on Synthetic Drugs in East and Southeast Asia, Douglas (2023) states that 'East and Southeast Asia's drug market has been marked by a decade of growth in the production and trafficking of synthetic drugs, particularly methamphetamine – a trend that continues'. Moreover, in 2022 the BNN seized the 'third highest amount [of crystal methamphetamine] on record for the country, showing that

methamphetamine supply in the country remains at the high levels observed since 2017' (p. 65). The second most frequent substance in our sample was cannabis, either natural or synthetic, which was used, sold, or produced by 11 individuals. Finally, four people had committed ecstasy-related offences and one person had been arrested for using heroin. It is to be noted, however, that three interviewees had mentioned previous heroin use.

While the average prison sentence was approximately nine years, the minimum length within our sample was five years (nine people) while the maximum was fifteen (two people). Five years is the minimum sentence for Art. 114, which explains why no one within our sample was sentenced to less than that amount. The only individuals who could have potentially been sentenced to less than five years were the four inmates convicted of either Art. 111, Art. 112 (both carrying a minimum of four years), or Art. 122 (which has a minimum of two years and a maximum of seven). Therefore, it is implied that while several individuals charged with Art. 114 received the minimum punishment, all the people charged with only Art. 111, 112 or 122[45] were sentenced to longer than the minimum imprisonment length.

There is one additional factor that needs to be considered when discussing imprisonment length in Indonesia: subsidiary fines. When an individual is sentenced to imprisonment for drug offences, they are also sentenced to pay an expensive fine. These fines range from IDR 800 million (approximately 49,000 €) as the minimum for possession, to IDR 10 billion (approximately 613,000 €) as the maximum for Art. 114. These fines can also increase by one third if the quantity of drugs carried surpasses a certain threshold. Most of our interviewees (69%) had been sentenced to pay IDR 1

[45] Art. 111-112 regard the planting, maintaining, possessing, storing, or controlling of Category I Narcotics; Art. 122 concerns the possession, storage, control, and provision of Category III Narcotics (Law 35/2009).

billion, with an additional two individuals saying that their fine had been between IDR 800 million and IDR 1 billion, and eight people reporting a subsidiary fine of IDR 800 million. Only one person stated their fine had been as 'low' as IDR 100 million, while the rest could not remember what it had been. As an option, all inmates can 'pay' their fine by simply lengthening their incarceration time. Considering our interviewees' average salaries, as previously detailed, none of them had been able to pay it, and the shared understanding amongst them was that the fee was either impossible to pay or not worth paying, as no one would be able to accrue such wealth on the outside through employment within a reasonable timeframe. When we inquired about how long the additional imprisonment would be if they did not pay their subsidiary fines, 28 interviewees said between one and three months, while another 21 stated it would be between four and six months. For only three people it was longer: seven to nine months added for two, while one individual had their sentenced increased by more than nine months.

Before continuing onto the motivation section, I believe it necessary to spotlight a particular ethical concern. Considering that the Indonesian legal system does not specify how many extraordinary appeals (*peninjauan kembali*) inmates can petition for, they can request a review of the court decision at any time. Indeed, Kompas reports that up to 35% of *peninjauan kembali* petitions in cases regarding narcotics and corruption are accepted (Kumalasanti, 2023). Therefore, it was necessary for us not to endanger their chances of a successful petition. To address this potential issue, as part of the interview protocol, the interviewers informed the interviewees, prior to any question being asked, of the boundaries regarding anonymity and confidentiality. The main focus of the interviews was the exploration of the participants' mental state and motivations preceding the offence, rather than the commission of the crime itself. Although a prison officer was present in

the interview room, they were positioned at a distance that prevented them from overhearing the conversation between the interviewer and the participants. Lastly, during the introductory phase of the protocol, the interviewers informed participants they could choose not to answer a question if they did not wish to, and that they were free to interrupt, take a break, or terminate the interview at any moment. Likewise, participants were given instructions on how to opt out of the study even after the end of the interview if they later decided they did not want to be included anymore, up until a set date.

Motivation

From the open-ended question posed to all respondents regarding their reason for committing the drug offence for which they were incarcerated, three main themes emerged. Firstly, interviewees had been motivated by financial needs or a desire for wealth (84%). Secondly, a considerable feature of their 'financial needs' had been the necessity to support their drug addiction. This need for drugs was not specific to individuals charged with drug possession for personal use but was also expressed by those involved in the drug trade as sellers or couriers seeking to acquire sufficient wealth to sustain their addiction. Although those interviewees who reported having being addicted were aware of their high levels of consumption, most still viewed drug usage as a positive behaviour, at least insofar as it allowed them to work longer hours or experience pleasant sensations ('I used it because it made me feel more relaxed, and I enjoyed it', 'I use uppers only for extra stamina', and 'My body was tired, and I needed the dopamine to work'). Notably, two users expressed the opinion that marijuana consumption is beneficial to the body as it can even treat diseases like cancer, and that it is not dangerous as it is a plant that is 'naturally made by God'. Within this same theme, it is to be noted that while delivering or dealing

drugs, some people had increased access to free substances, as evidenced by the following quotes:

> [A]: I could use drugs freely.
>
> ***
>
> [A]: I could have the leftovers to myself.'
>
> ***
>
> [A]: We can use [drugs] without having to spend money.
>
> ***
>
> [A]: So, the benefit of using [drugs] for free was like that, there's always a ready stock.
>
> ***
>
> [A]: The benefit was that I didn't have to buy anymore after I met with this dealer. I could use it for free.

Thirdly, a related theme linked to the central idea of wealth acquisition concerned the ease and speed with which drug offences can enrich those willing to put their freedom on the line. Several respondents discussed the straightforward nature of the drug trade as one of its main attractive qualities. Lastly, among those led by a desire to acquire wealth beyond what would be needed to cover their basic necessities, a few people talked about the thrilling nature of working in the drug trade and the fame one could achieve within it, by saying 'it was fun', or 'I wanted to become a mafia [...] a cartel – just like how it is in other countries', or 'I wanted people to look for me. I wanted to be famous at the time', and then again 'It was my passion. Imagine being asked what your passion was and answering 'drugs'. Damn, that's insane'. This ties in with the literature on the informal benefits of this type of crime, and the immediate 'reward' which a thrilling endeavour can grant (Katz, 1988). Moreover, it calls forth concepts of edgework, as expressed by Lyng

(1990, 2004) and (Reith, 2004), according to whom risky behaviours which pushes personal boundaries, such as drug consumption or other related illegal activities, can be a means of expressing the self and transcending towards a more authentic existence. Negotiating the risks inherent to edgework and successfully navigating the line between order and chaos can also empower the individual, who feels in control over the self and the risky activities they choose to engage in (Lyng, 2004).

These results also further strengthen previous points on societal idealisation of material gains. An interesting article on the portrayal of masculinity among young Indonesian men highlights how one of the aspirational figures in Indonesian media culture is represented by the 'pugnacious criminal or gang member [...] [who] might be a *preman* (thug), a drug user or dealer, a pimp, or just a collective participant in the gambling, drinking, whoring, 'fight club' culture that characterises inner city street life' (Nilan, 2009, p. 328-329). The effects of media on crime are, however, beyond the scope of this thesis (Bandura, 1961; Taylor, Walton, & Young, 2013); and indeed, only a few of the inmates could be seen in this way, and then only partially.

Lastly, a commonly shared experience amongst respondents was difficulties in finding legal employment. This is unsurprising, considering that almost 50% of them had been previously convicted of a crime, and prior convictions damage future employment prospects, especially in respectable and potentially high-earning jobs. Indeed, several people reported having no other options than working in the drug business and giving in to illegal offers due to a lack of alternative job opportunities.

> [A]: It was fairly hard for me to find jobs and do any other routines.
>
> ***
>
> [A]: [I] didn't actually choose, but I had to because it was hard to get a job outside prison. I could no longer work in factories, and regular jobs did not pay enough

> for me. It would probably be enough for normal people, but I drink [alcohol] a lot and use [drugs], so it was not enough.
>
> ***
>
> [A]: Well, personally, I have lived in the streets since I was little, so it felt impossible in my mind to look for traditional jobs. That was why I looked to drugs, as the money was instant.
>
> ***
>
> [A]: Working a legal job does not make a lot, my half a year. Finding legal jobs. But there's no calls. [...] Coincidentally, my 'brother' offered me, so well.
>
> ***
>
> [A]: I didn't have any choice, I've tried to apply for a job in multiple places. Applied those CVs and no luck at all.

As individuals can have multiple incentives for crime, we wanted to ensure that other possible motivations had not been overlooked. Hence, we asked our interviewees whether they had also been threatened into committing the offence, as well as whether they had done it as a favour or to help someone else. The latter two options were expressed as separate prompts, however I will present the responses in an aggregate manner, since the inmates understood them to be almost interchangeable.

The results show that no one in our sample had been threatened into committing the criminal activity. Instead, 30 out of 53 respondents admitted that they had offended to help someone, in most cases their family,[46] as exemplified by the following quotes from five separate interviews:

> [A] Because I was thinking too much about my family's demands and needs.
>
> ***

[46] We had created these prompts to target those cases in which a person might be asked to carry a package or complete an errand for someone else or aid a friend to commit the drug offence as a prosocial action, however the question was understood differently by the participants, who equated it to providing financially for their loved ones.

> [A] Daily needs. My parents' needs. The need to make my parents happy.
>
> ***
>
> [A] I wanted to fulfil my family's needs.
>
> ***
>
> [A] Because I have dependents.
>
> ***
>
> [A] I saw my kids who wanted to buy things. [...] My family. I was financially responsible for them.

One person, however, did mention that one of the dealers had been kind and generous to him in prison in the past and that, in return, he had felt obligated to repay the favour by storing and delivering drugs for him. It is clear from the most frequent responses that over half of the participants cared about their loved ones enough to count their well-being and financial situation as an important driving factor for their economically motivated criminal actions. Therefore, we decided to explore how much their loved ones' knowledge of the illegal activity and their opinions had impacted on their decision-making process.

Impact of Significant Relationships on Offenders' Motivations

First, we inquired about whether their loved ones had been aware of their involvement in the drug trade. Over 75% of the interviewees' loved ones had known about their dealings, which is surprising in light of the many instances in which the inmates discussed having been ashamed of their actions and worried about losing the respect of the people closest to them. This contradiction will be further explored in Chapter Six, particularly in connection with one bias: cognitive dissonance. Out of the 40 respondents who said that

their loved ones had been cognizant of their activities, 34 further stated that the latter had tried to dissuade them from continuing.

To garner a more in-depth understanding of the household dynamics, we then asked them who specifically had tried to deter them. Most respondents (64%) stated it had been a family member (parent, sibling, uncle, etc.) and an additional 11% mentioned a joint effort by their partner and other family members. Other cases included three people whose partner had tried to stop their actions, as well as three friends, two children and one ex-lover.

When we asked them to detail what exactly had been said or what actions had been taken by their loved ones to convince them to desist, the vast majority reported their loved ones simply warning them about the illegality of the activity and the risks connected to it, as seen in the following excerpts of things family members had told the interviewees:

> [A]: That was illegal, you could get in trouble. It is useless. It destroys your body and your money. You could get in trouble with the law.
>
> ***
>
> [A]: Stop, you should be careful. You are playing with drugs like this. You know the risks.
>
> ***
>
> [A]: Just stop it already, before you got arrested.
>
> ***
>
> [A]: They used to tell me to stop due to the many risks. But what else could I do when I was already addicted? All they could do was just talk.
>
> ***
>
> [A]: She [mother] would scare me by telling me the cops were coming and that lots of people have been arrested and executed.

Only a couple of inmates had been expressly forbidden by a family member from continuing to break the law within the drug trade ('My older brother told my mother, and she forbade me' or 'I can't be with you if you're not stopping this'). One participant recounted leaving his parents' home due to criticisms of his illegal dealings, and another stated that his family had thrown out his drugs and burned them. Overall, the most common way to try to discourage the interviewees had been telling them to stop and urging them to find a legal form of employment instead.

> [A] What are you doing? You better find the right kind of work. What if you got caught? It would be long, or worse you would be sentenced to death.
>
> ***
>
> [A]: If you can, don't do drugs. Look for a halal job.
>
> ***
>
> [A]: Stop selling that. Find a right way to earn money.
>
> ***
>
> [A]: They often asked me to stop and advised me not to use [drugs].

Amongst the risks mentioned by the family members, two serious potential risks were mentioned by many of the interviewees. Several family members had discussed the possibility of incarceration with the inmate; one person had even spoken about the possibility of execution in an attempt to convince their loved one to stop offending. While the individuals in our sample had been drug users or low- to middle-level drug dealers and couriers, we still wanted to address whether, at the time when they first had the opportunity to commit the crime, they had been worried about the various negative outcomes. For this reason, we inquired about how worried they were in regard to being incarcerated as well how worried they were about the prospect of a death sentence.

Over half of the inmates (54%) reported worrying 'a lot' about the prospect of a prison sentence, with an additional 27% worrying 'a little' and only 19% stated they had been 'not at all' concerned about it. When the question shifted the focus onto capital punishment, the responses became almost equally split between the three options, with 17 people reporting no worries about it, 15 claiming they had been 'a little' worried and 18 'a lot' worried.[47] The following excerpts detail the reasoning behind the lack of concern towards capital punishment among some of the respondents:

> [A] 'No, because I thought that there is no death penalty in Indonesia. It doesn't exist anymore.'
>
> ***
>
> [A] 'No, I didn't care if I had to die. Look at how I was. I went out to get drug every night.'
>
> ***
>
> [A] 'No. None. I'd think about it if it's around tens of kilos, but no.'
>
> ***
>
> [A] 'No, since I didn't know the death sentence was possible.'
>
> ***
>
> [A] 'Not at all. When I was arrested, I was actually charged with the death sentence. I didn't think about it at all. I didn't know Article 112-114 and how long the sentence would be, so it didn't cross my mind.'

It was surprising to discover that some individuals engaging in the drug trade, even as users, had not been aware that drug crimes can attract the death penalty. When we had asked them when they had been arrested for their most recent crime, a majority reported being arrested in the years 2016 to 2020 (83%), with a peak during the biennium of 2018-

[47] One person answered both questions with 'between a little and a lot' and the datapoint was therefore not added to the result.

2019 (54% of all arrests). In 2014, President Widodo announced that the country was in a state of 'narcotics emergency', to justify a new round of executions, which took place in the 2015-2016 period and saw the death of 18 individuals, most of which had been charged with drug offences. Not only did these executions spark international controversy, but the debate on the usefulness of capital punishment as a deterrent for drug trafficking has seen a lively discussion also on a national scale (Anjani & Muhamad, 2015; De Ungria & Jose, 2020; Fransiska, 2022; Hood & Hoyle, 2015). Moreover, in the same time period, Indonesia has seen the birth of hundreds of forced rehabilitation facilities and an increased interest by the government in advertising their efforts to curb the 'narcotics emergency' (see Chapter One). The cases leading to the 2015-2016 executions were widely publicised by the media, and while the executions per se were not open for public view, the government did not keep them secret (BBC News, 2015; Jenkins, 2015).

It is however equally surprising that most of the respondents reported being at least a little worried about the death penalty considering their charges and quantities of drugs transported. Not only does the general population lack knowledge about capital punishment legislation,[48] but the exact thresholds of drug amounts are also not as transparent and would require individuals to have prior knowledge of which category their type of drug falls under, and then research specific articles within Law No. 35/2009. Furthermore, according to Transparency International (2022), Indonesia has a corruption perception index of 34 (with zero representing the highest level of corruption and 100 the lowest degree) and ranks 110th out of 180th countries. Moreover, corruption in Indonesia is endemic of criminal justice institutions, and while through the years there have been

[48] In a study on public opinion on capital punishment in Indonesia, only 2% of respondent reported being 'very knowledgeable' about the death penalty (Hoyle, 2021).

several attempts to foster initiatives aimed at curbing corruption – with the exception of the creation of the KPK and ACC – these initiatives have failed to be successful, oftentimes due their reliance on already corrupt institutions, such as police, public prosecution, and courts (Butt, 2012). It becomes apparent from these data that, in a criminal justice system in which arrest, conviction, and sentencing might still be arbitrary due to the possibility of bribing a corrupt officer or a judge, the law stops being a fixed practice, further adding to the overall uncertainty and arbitrariness of the system. As a consequence of such arbitrariness, it is not out of the realm of possibilities for someone in the lower end of the drug supply chain to fear being caught in the system and charged with a harsher punishment than what the law would technically determine.

Recruitment

We wanted to allow our interviewees to describe in their own words the circumstances that led them to become involved in the criminal activity for which they were then serving time. To achieve this, we posed an open-ended question, asking them to narrate how they first become involved.

The most common recruitment dynamic emerging from these narratives was the offer by a friend to join the drug trade, and respondents reported that the offer was often made while consuming drugs in a social setting, as highlighted by these excerpts:

> [A]: They saw me unemployed and said that rather than using, if you want to use, to buy [drugs], you'd rather help me. [...] Delivering this allows us to use it freely.
>
> ***
>
> [A]: Yeah, we buy buy, buy as a consumer, but since it's not enough, as in the economics, I try stuff. Tagging, fare collector. So, I tried it too, I got my motorcycle. Or a car, or became a car operator. Dropping.
>
> ***

> [A]: Drugs easily yield money.
> [Q]: Easy money. What else?
> [A]: Using it also felt good. [...] I was working at [place of employment] at that time. It wasn't satisfying since I didn't have a salary. Then my friend came to me and offered me to work. So, I quit that job and ended up working like this again.
>
> ***
>
> [A]: At first, a friend of mine offered.
> [Q]: A friend offered.
> [A]: Trying out Marijuana. I tried and tried until I asked my friend to take it out because it helps me feel refreshed, laugh, pressure from work disappears and I've been doing it for a whole year. Doing it, doing it, and my friend invited me. Until finally I was interested and invited to do business.

A second narrative focused on financial need and an offer from another to alleviate that burden. Offers were often phrased as job opportunities, which calls into question the respondents past perception of the legality or illegality of the tasks. While they all stated being knowledgeable about the nature of their dealings,[49] this finding needs to be analysed in light of previous responses. For instance, when we had inquired about how many family members had worked legally, or how much they would accept as a salary for legal employment, there had been confusion regarding the distinction between legal and illegal work. In a world where the underground economy is just as developed as the one on the surface, this might point towards a more fluid conceptualisation of employment in which the line demarcating illegality is rather blurred, bleeding into different forms of work according to individual perception.

To get a more rounded understanding of the recruitment process, we proceeded to ask a series of close-ended prompts targeted at learning about who recruited them, in

[49] Except for the three individuals who claimed to be innocent and the two additional people who claimed to be partially innocent.

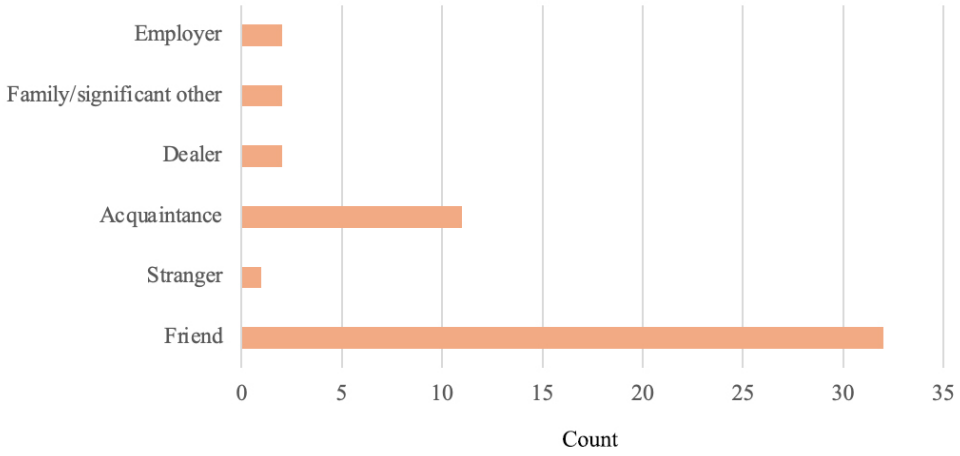
which circumstances, how long it took them to choose to commit the criminal offence, and what was discussed between them and the recruiters in terms of risks and benefits.

I will start by outlining who the recruiters were by reporting their relationship with the interviewee. As clear in Figure 4, 64% of interviewees had been recruited by a friend, while 22% had been offered the chance to commit the crime by an acquaintance, and only 4% by a stranger. On average, the participants had known their recruiter for 8.66 years, with a minimum of one month and a maximum of over thirty years. The close bonds between most interviewees and their recruiters become clear through their recollection of the process. One person for instance said they had known their recruiter for 'around three years. But I only knew them as a boss, and that was it. [...] He must've seen my track record as well, how I acted while I was inside, how loyal I was. He wouldn't give it to just anyone'.

Another inmate also reported he had been chosen 'because he knew me from high school, until I graduated and started working, he knew my personality.' It is likely due to

Figure 4

Relationship with recruiter



this closeness and the high level of reciprocal trust (a theme which I will analyse in the next chapter), that led a third of individuals to accept the offer on the spot (33%), with an additional 19% reporting a deliberation time of less than a day.

For some people, being recruited was akin to a job opportunity rather than a potential pathway to incarceration. With the promise of high rewards and a pre-requisite of trustworthiness, being chosen to become part of the lucrative trade appeared to some as a once-in-a-lifetime opportunity. Another 19% took between one or two weeks to decide, and the process is well expressed by one respondent who said:

> So, before I was released, my friend told me that if I ever needed to come back doing that, I could just inform him. We were helping each other. If they had more help, they could get points to get money. [...] It was less than a week – after I was released – that I decided that I wanted to get back on that road again.

Regarding the communication of the risks and benefits of the criminal activity between the recruiter and potential criminal, we asked our interviewees whether they had been informed of the risks. The findings were almost equally split between those who had been made aware of the risks (17) and those who had not (15). However, a further eight stated they had already known the risks, and three said they had been 'partly' informed by their recruiter.[50]

As we wanted to investigate whether the interviewees had been targeted by recruiters due to their financial need, we also inquired about why they thought they had been chosen by the recruiter. Unexpectedly, only five individuals mentioned their financial circumstances as a significant factor; although, it becomes less surprising if we consider that most people still reported having been able to support their basic needs and

[50] We asked what they intended by being 'partly' informed and the respondents stated that the recruiter had merely told them to be careful.

those of their household. Instead, the principal motivator for being recruited appeared to be the inmates' trustworthiness, undoubtedly helped by the many years of friendships which had preceded the offer in the majority of the cases. Indeed, an additional nine people, without directly mentioning trust, stated that the reason they had been picked had been their long-standing relationship with the recruiter. A thorough analysis of trust as an essential theme in criminal decision-making will be presented in the following chapter. Lastly, it is necessary to mention that four individuals had not been recruited, and instead had approached local drug dealers in their area asking to be included in the trade. One person, for instance, reported, 'Initially, I was the one who approached them first because I wanted to know more. [...] I was told that this is high-risk. I could get arrested by the police and imprisoned, but I did not listen and went on with it, because I thought that it was just a precaution', while another one said, 'I asked, and they usually need our help to market and sell the stuff'.

Considering the crucial role that recruitment plays in the decision-making process, these data will also be employed in the following chapter to investigate the factors which had led the respondents to discount both formal and informal sanctions, culminating with the commission of the crime and the subsequent incarceration.

Discussion

The objective of this chapter is to delineate the profile of individuals who participate in the drug trade, the reasons underlying their involvement, and the process by which they become engaged in this illicit activity. To address these questions, we conducted an in-depth qualitative interview examining various aspects of their background, encompassing familial, financial, health, and prior encounters with the criminal justice system. Likewise,

we explored a wide array of possible motivations which could drive individuals to commit a drug offence, and finally, we asked them to retrace their journey from the initial offer to use or sell drugs to their eventual conviction, paying particular attention to the recruitment phase, which constitutes a pivotal decision-making moment.

In response to the first query, the findings indicate that the majority of the individuals in the sample originated from underprivileged backgrounds, with 47% being unemployed at the time and 57% having only completed high school. On average, the 81% of the interviewees who had had dependents had been responsible for an average of 4.3 individuals overall, out of which 2.2 had been children. The inmates themselves had first become involved in drug offences as children, with 46% having entered the drug trade between the ages of 10 and 19. Contrary to the prevalent media portrayal of drug kingpins who exploit vulnerable users for profit, we found that sellers and couriers had also often been using drugs at the time of their arrest, blurring the lines between the two categories of offending, and casting even longer shadows on the presumed rationality of their decisional process.

Moreover, concerning the second research question, with 34% of them saying they could not afford basic necessities (without the drug profits) and reporting a legal salary 40% lower than the average monthly salary in Jakarta (IDR 8.66 million, Horizon, n.d.), their involvement in the drug trade appeared to be mostly a way of financially supporting themselves and their loved ones. The most common motivation for their participation had been the need for financial stability or a desire for a better lifestyle, although some individuals cited their drug addiction or easy access to the substance as a driving force. Although many participants did not report living in abject poverty, some admitted to using drug profits to purchase luxury and non-essential items.

Despite the overall precarious financial circumstances and scarcity of legal opportunities for profitable employment, the interviewees in our sample did not express a complete absence of agency during the recruitment phase. They were not necessarily coerced or preyed upon, and some even described actively seeking out such opportunities. For instance, one participant stated, 'I did it on my own, because I need to use and would be free if I became a dealer', while another said, 'The second time, I told him that if he had a job, I wanted to be employed'.

The findings also suggest that the recruitment process was often initiated by a friend or acquaintance, and that the choice had been almost immediate, pointing towards a rushed decision-making process characterised by a 'bounded rationality' and a very stringent 'stopping rule'. While the individuals in our sample claimed to have been aware of the risks involved prior to accepting their role in the drug trade, the recruiters often downplayed the dangerousness of their tasks, portraying it as a simple activity such as 'only' or 'just' carrying a package from one place to another. If we couple this last finding with our previous results on the most frequent type of employment, a picture starts to emerge which brings front and centre the role of the informal economy.

5. Formal Punishment and Decision-Making

Introduction

As detailed in Chapter One, the Indonesian government has consistently emphasised punitive measures in its response to drug offending, particularly following the 2014 presidential declaration that the country was in the grip of a 'narcotic emergency', and the subsequent amplifying of the 'war on drugs' (Gunaway & Pamintori, 2019). This escalation of punitiveness within the Indonesian criminal justice system is exemplified by the severe penalties, primarily long-term incarceration, imposed for drug-related offences, even those of a minor nature (Law No. 35/2009). Simultaneously, the BNN has received increased funding to address this 'emergency', while ministries responsible for public health and welfare have seen their budgets reduced (Kapoor, 2016). These developments are clear indicators of the government's heavy reliance on punitiveness in its campaign against drug offending.

From a theoretical standpoint, these policies align with the classical rational choice perspective rooted in economic theory of expected utility maximisation, which posits that, given personal preferences, individuals choose between alternatives by objectively calculating the expected value of the different options, with an infinite amount of time to deliberate and accurate knowledge of all possible consequences they might incur if they decide to offend (Becker, 1968; Mongin, 1997). However, classical rational choice is commonly seen as a normative, prescriptive framework, delineating the choices we *ought* to make under ideal circumstances, rather than a descriptive one offering an exact portrayal of typical decision-making in the real world (Sidebottom & Tilley, 2017). It is now widely

acknowledged that rational choice theorists recognise the existence of psychological, social, and biological constraints on decision-making. Hence, over the years, scholars have developed alternative models to a rational choice perspective based on simple expected utility maximisation, incorporating factors beyond mere sanction severity. As outlined in Chapter Two regarding the theoretical framework, evolutionary psychology researchers have examined the influence of heuristics in decision-making, characterising them as 'optimising solutions', rendering even 'bounded rationality' (Simon, 1955) as nothing more than an adaptive strategy (Ekblom, 2017). Risk-taking has been viewed as an adaptive mechanism linked to the 'young male syndrome' wherein individuals willing to take risks, regardless of the potential dangers, may appear more sexually appealing, thus enhancing their reproductive prospects (Steinberg & Belsky, 1996; Wilson & Daly, 1985). Furthermore, some scholars have explored the neurological and psychological processes involved in decision-making, identifying two distinct cognitive pathways: one based on emotion, and vulnerable to biases and heuristics, and one based on probabilities, statistics, and rational calculi (van Gelder, 2017; Kahneman, 2011; Stanovich & West, 2000).

This chapter focuses on the interplay between knowledge, risk perception, and decision-making processes within this cohort. It aims to investigate whether the decision-making processes of Indonesian drug offenders align with the conceptualisation of RCT based on simple expected utility maximisation, therefore supporting the government's investment in punitiveness, or if alternative perspectives offer a more accurate description of their criminal decision-making. The study examines the foundational elements of the classical RCT framework: knowledge of the law, risk perception, and choice to offend. Furthermore, it explores why individuals opt to commit drug offences despite the harsh sanctions imposed by the Indonesian legal system. To achieve this, the study investigates

several factors and their impact on decision-making: attitudes towards personal agency, the role of corruption in assessing sanction certainty, the significance of interpersonal trust, and the temporal aspect of decision-making.

I argue that rigid conceptualisations of RCT are ineffective in shaping and maintaining criminal justice policies. Instead, I posit that models which problematise RCT, adding complexity by including cognitive, psychological, and sociological elements provide a more comprehensive description of Indonesian drug offenders' decision-making. For instance, practices rooted in a classical rational choice perspective, such as heightened punitiveness (e.g. longer prison sentences, increased number of death sentences) may not effectively deter emotionally driven individuals whose cognitive myopia discounts future criminal justice sanctions.

As such, this study concurs with van Gelder and colleagues (2014), on the efficacy of characterising criminal decision-making as a 'reasoned choice' rather than a 'rational choice', and it seeks to elucidate the various factors influencing reasoned choices within the specific context under examination.

Knowledge of Formal Sanctions

At the heart of classical RCT lies the assumption of absolute knowledge about the legislation concerning the criminal act that the offender is considering pursuing, for there could be no risk assessment without the knowledge that a behaviour is criminalised in the first place, and what punishments are associated with it. For this reason, we asked our participants whether they had known about the relevant legislation on drug offences.

Out of the 57 interviewees in our sample, 32 responded affirmatively, 17 said they had not properly known the law, while 5 said they had only somewhat been knowledgeable

about it, including people that initially said yes but then specified that they did not actually understand it, or that they had only known it 'generally', as seen in the following extracts.

[A]: Hmm, I know, Miss, just generally.

***

[A]: Only from my friends… that the punishment would be more than five years.

***

[A]: I know a bit.

***

[A]: I didn't know that the punishments were this lengthy.

***

[A]: Not really understand.

***

[A]: Ah, a little bit.

These results are not surprising, as the Indonesian government has made their anti-drug campaign a priority since President Widodo announced a state of 'narcotics emergency' in 2014; it is likely that a majority of people within the overall population would have been regularly exposed to anti-drug public service messages and news regarding drug legislation.

While we did not ask participants specifically whether they had been aware that possessing, dealing or storing drugs was illegal, their answers throughout the interview further highlighted good levels of awareness of the criminalisation of involvement in the drugs trade. We also did not ask them to show proof of knowledge of the specific articles within the law at the time of the offence primarily because all participants were

incarcerated at the time of the interview and so had inevitably gone through an extensive judicial process during which time their knowledge of the drug laws had likely increased exponentially. Therefore, we would have not been able to discern whether their reported past knowledge of specific legislation had in fact been newly acquired information or if, at least, some contamination had taken place.

As we also wanted to test their understanding of the consequences of breaking drug laws, we asked two questions about their knowledge: 'what did you think the penalties would be?' and 'what did you think would happen if you got caught?'.

In regard to the first question, 29 out of 53 respondents stating having had a good understanding of what the likely penalties would be, while 18 had not. When we asked them their past assessment of the likely outcome of their criminal activity post-apprehension, 15 of the 36 interviewees answered with accurate or semi-accurate descriptions of the most likely consequence, while 21 did not appear to have had a correct assessment of what would happen if they got caught.[51] The following quotations highlight instances of incorrect assessments, considering they did receive a sentence of imprisonment for their actions.

> [A]: I know, but it's more of a threat. A threat doesn't automatically make it into a prison sentence.
>
> ***

[51] Due to the discursive nature of these responses, I categorised everyone who reported misjudging the length of the imprisonment or who believed they would be sent to rehabilitation as not knowing the likely penalty. However, if a person replied that they had thought they would be incarcerated, without specifying the length, I classified it as knowledge of their likely future outcome. For the second question, I accepted as knowing the likely punishment respondents' mentions of losing their family, or having their future destroyed. I did, however, exclude cases in which they only talked about how they would feel ashamed and regretful of their actions, or lose respect of the family, or other peripheral cases. Because of the high frequency of these peripheral cases, this question has a lower *n* than the previous one. It is also necessary to mention that an objectively accurate assessment of one's future outcomes is not possible, as it is unknown how many people are involved in the drug trade, and how many people get arrested, sentenced, incarcerated etc. This is partly due to the nature of the crime and partly to the type and amount of data shared by the Indonesian government and law enforcement agencies on the matter.

> [A]: Maybe I will be bailed out.
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> ***
>
> [A]: I thought I would be released after I got arrested.
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> ***
>
> [A]: I thought I was going to be released. [...] That I would get to go home as I did back in 2016. As it turned out, I couldn't, and here I am.
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> ***
>
> [A]: Well, my mind was all over the place. But I always hoped that it never had to come to that point. [...] Well, if you see it on the news, when they have the money, they can pay up the police. [...] But it wasn't doable in my case.

Several themes emerged from the responses, starting with a vague understanding of the actual consequences, with one participant for instance saying, 'I didn't know that the punishments were this lengthy', while another mentioned that he thought he was going to be released. Some people had already calculated their potential imprisonment length depending on drug type and quantity ('Prison time. I had already calculated eight years' and 'Since it was marijuana, at least four years'). Others, however, believed they would get a lighter sentence through bribing the officers ('Thought I could negotiate and bribe [...] Probably only two years'), or had a faulty understanding of the consequences as they thought they would get a similar imprisonment length as other friends, who had only received two-year sentences, instead of the 15 years this participant was sentenced to.

When it came to their knowledge about the specific punishment they would receive, interestingly, nine respondents only discussed informal sanctions rather than formal ones, and three additional people mentioned both, connecting the two. For instance, one person said, that they 'knew it [the punishment] would be prison, it would mess my family up, my children's education wouldn't be taken care of', while the

remaining two highlighted how imprisonment would mean being far away from their families. Among those who only talked about informal sanctions, they described losing their family and their future as the main consequence.

> [A]: I imagined that, first I'll lose my job, the legal job, and I'll lose respect from my family. Both family and society.
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> ***
>
> [A]: I would be ashamed of my actions in front of my wife and my in-laws.
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> ***
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> [A]: people would talk about it in my neighbourhood… in my family too.
>
> ***
>
> [A]: It will take my heart apart because no one will take care of my younger sibling.

The significance of informal sanctions expressed by the interviewees is interesting considering Zimring and Hawkins' (1973) findings that the deterrent power of formal sanctions is likely to increase when they set off informal sanctions. Chapter Six will focus exclusively on informal sanctions and will provide a more detailed investigation of their influence on decision-making within the individuals in the current sample.

Notably, one person did not express much concern at the thought of incarceration, stating that, in their own experience, it is much easier to be involved in the drug trade from inside the prison than outside (they had been involved in both). Overall, he stated 'the drugs are easy to get here'.

Risk Perception

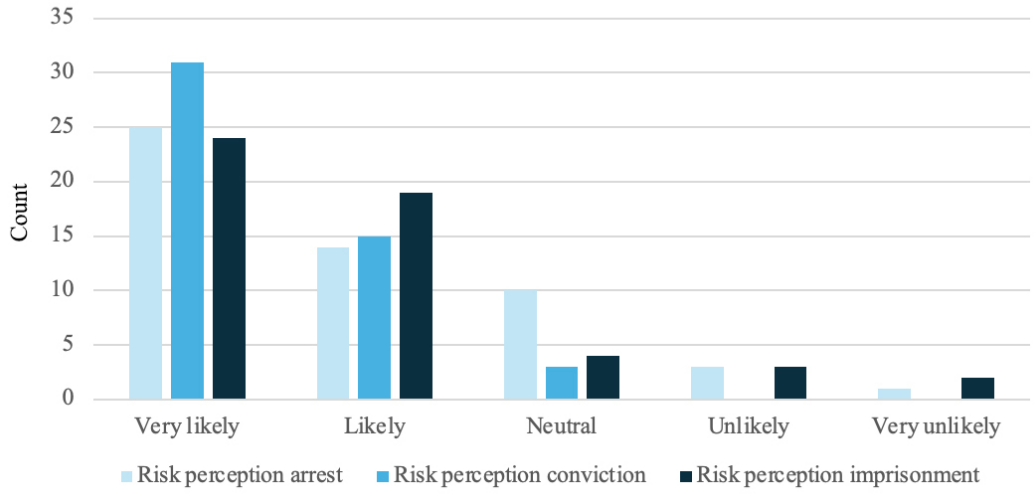
After an appropriate level of knowledge of the law, the next assumption on which classical RCT relies is that potential offenders will be able to accurately assess their own risk of

apprehension and punishment. Consequently, the theory claims that if their perceived risk is higher than their assumption about the likely rewards (in this case the benefits related to the drug offence), they will decide against offending.

To assess risk perception, we asked the participants to think back to the time when they were deliberating whether to commit the crime and recall their perceived level of risk for the following outcomes: arrest, conviction, and imprisonment. The possible responses ranged from 'very likely' to 'very unlikely' on a five-point Likert scale. It was interesting to discover that many respondents had estimated their likelihood of arrest, conviction and imprisonment to be at least 'likely'. This goes counter to the expectations of perceived 'magical immunity' posited in the theoretical framework (Claster, 1967); indeed, while I had anticipated the interviewees reporting low risk perception at the time of the decision-making process, due to their perceived skills of arrest evasion and overall ability to offend without consequences, the responses show a diametrically opposed risk perception. In fact, 'very likely' was the most frequently chosen response for each stage of the criminal process, with 47% of participants reporting it was 'very likely' that they would be arrested, 63% saying it was 'very likely' that they would be convicted, and 46% believing it was 'very likely' that they would be imprisoned. It is worth noting that no one chose 'unlikely' or 'very unlikely' when asked about their chances of being convicted, suggesting a general perception that convictions are inescapable once someone is tried. Three people, however, did respond with 'neutral' to that question (Figure 5). It is however to be considered that while their reported levels of perceived risk do not show signs of 'magical immunity', their decision to offend notwithstanding their own assessment might point towards such a delusion, perhaps at an unconscious level. While they reported that they had estimated a high likelihood of apprehension, they still might have believed that it would not happen,

Figure 5

Perception of the risks of arrest, conviction, and imprisonment



not from a rational standpoint, but one based on irrational ideas such as 'magical immunity'.

While everyone believed they would be convicted, not everyone expected to be incarcerated. In fact, three people reported incarceration being 'unlikely', and a further two individuals said they had thought it to be 'very unlikely'. This could potentially be explained by the double-track system that exists within the Indonesian legislation, providing for diversion from prison to rehabilitation facilities for drug users, though not for those involved in the drug trade. It is therefore possible that these respondents had hoped to be able to be sentenced to a rehabilitation period rather than incarceration.

Since some of our respondents had also known other people who had been sent to rehabilitation or had themselves been diverted from imprisonment in the past, it is possible they had simply assumed they would receive a similar punishment this time. Additionally, one of the people who said they had thought incarceration unlikely justified this by saying, 'because there is backup', suggesting that someone from the outside – likely

the recruiter – would intervene on their behalf and make sure they would not get a prison sentence. However, all of these five people who had deemed incarceration unlikely or very unlikely had been charged with both Art. 112 (possession) and 114 (dealing), which classifies them as drug dealers rather than simple drug users, making rehabilitation an unlikely option, and they had clearly not been saved from incarceration by someone higher up in the drug trade.

As it is not uncommon for drug users storing significant amounts of drugs for personal consumption to be misclassified as couriers or dealers, I further investigated the circumstances of the criminal activity and what participants self-reported as their offence. Only one person claimed to have been miscategorised, saying that he 'had brought them home. And the next day was the massive social [Covid-19] restrictions. So, I had brought what I had in my store back home. That's why I keep saying that I was unlucky'.

Overall, the distribution of risk perception for arrest, conviction and imprisonment has a 'right skew,'[52] with most respondents reporting high risk perception for the three outcomes (Figure 5). This finding is crucial, as it goes counter to how classical RCT would expect an individual to act. Indeed, if most offenders at the time of making the choice to commit the crime had perceived their risk of arrest, conviction, and incarceration as high, then it begs the question: why did they still go through with it? According to classical RCT, such high perceived levels of risk, especially considering the very poor physical and mental conditions experienced in Indonesian prisons, should have neutralised any benefit received from drug offending (Vorenberg & Vorenberg, 1990; Berrih, 2019). However, it is to be noted that people might perceive a fixed cost to simply

[52] A 'right skew' or 'positive skew' describes a distribution with the right tail longer than the left tail and the peak on its left side. Therefore, the data tends to be clustered on the left side of the distribution, as evidenced by the vast majority of our interviewees believing their likelihood of arrest, conviction and incarceration to be 'very likely' or 'likely' (left side), rather than 'unlikely' or 'very unlikely' (right side).

being apprehended, or convicted, and not a direct proportionality between perceived costs and potential sanctions (Klepper and Nagin, 1989). In a study conducted by Thomas, Baumer, and Loughran (2022), interviewees reported an average of 60% perceived chance of arrest following an array of seven types of crimes. Individuals in our sample reported higher perceived likelihood of arrest, which could be attributable to the differences between the samples, prior contact with law enforcement and experience of incarceration, as well as contextual and cultural factors.

Moreover, most offenders had not been in such a dire financial situation to need the drug revenue to cover necessities (see Chapter Four); instead, they had often mentioned wanting to acquire material goods, supplement their income to help their family, or fund their addiction (although the latter could be perceived as a primary need by someone dependent on drugs). The frequent mentions of providing for one's family or loved ones buttresses previous research which has evidenced the importance of going beyond mere self-interest and including factors such as interest of others and overall social interests when investigating decision-making (Susman, 2006; Tottenham, 2015; Vila, 1994).

Overall, the picture that emerges when combining the only moderate financial need among the participants with their (high) risk perception is one that contradicts the assumptions of classical RCT. In fact, considering the high perceived risk of arrest, conviction, and incarceration, only extremely high rewards, such as basic survival, would explain the decision to commit the offence. Hence, the ability to buy non-essential material goods would not be a significant enough reward to counterbalance the high perceived risks and sway an individual towards offending. Additionally, given their knowledge about drug legislation, and lack of compelling financial reasons for committing

drug offences, I had expected their risk perception to have been quite low, therefore explaining why they had deemed offending as a beneficial choice for them. The result subverted these expectations.

It appears then that despite the high risk perception, other factors might have impacted the decision-making process, overriding the weight of formal punishment within the equation, therefore producing an offending outcome rather than the expected non-offending result. Previous literature has also highlighted how offenders often engage in very little deliberation and rational planning before committing a crime, without properly weighing the potential risks, or even without thinking at all about possibly being apprehended (Felson, 1986; Tunnell, 1990; 1992).

In the following section, I break down and analyse the main factors which appear to have contributed to 'risk discounting', highlighting how rather than exhibiting a full ability to think rationally, our participants might have displayed a 'bounded rationality' (Simon, 1955).

Factors

Fatalistic Attitude

The first characteristic under analysis is an attitude shared by many respondents, and which heavily informed their approach towards the criminal activity: fatalism. Fatalism is defined as a 'doctrine [for which] events are fixed in advance so that human beings are powerless to change them' (Merriam-Webster, n.d.) and in this sample was evidenced by the offenders' beliefs that once one starts committing drug offences, 'If I do this, half of my body is already in prison'.

This attitude was also reflected in the responses concerning the interviewees' overall fear of punishment, with only 16 people reporting that they had worried 'a lot' about being sentenced to prison or to the death penalty while they were committing their crimes, while 22 stated they only worried about these outcomes 'a little', and 14 'not at all'. These results may reflect avoidance as a coping mechanism in a situation in which it is almost impossible to properly calculate one's likelihood of being sentenced to harsh punishments. However, coupled with the other findings in this section of the interview (18 people out of 44 saying that knowing the law did not affect their behaviour, 20 of 48 stating that knowledge of the law had not made them even hesitate, and 17 of 50 had not been worried) it paints a picture in which the widespread uncertainty associated with punishment finds fertile ground for a fatalistic attitude in which worries are pushed aside through avoidance and the individual puts their future in the hands of chance.

This fatalism might also be explained by the 'gambler bias', already introduced in the theoretical framework chapter, and consisting of the erroneous belief that a random event has a higher or lower likelihood of occurring due to past events, in this case that if one has not been arrested yet, they are 'due' for an arrest, just like someone having a bad run at the roulette table feels that it's highly likely they'll win very soon. While apprehension is not a random event, it is also not predetermined and might indeed appear random to an offender who has seen peers get arrested, been released through a bribe, or not been caught due to luck. Pogarsky and Piquero (2003) found that individuals are more likely to display a gambler bias when they estimate the possibility of being punished as uncertain; considering the widespread corruption in the Indonesian criminal justice system and the past 'escapes' from justice, it is therefore possible that our participants had

acquired a fatalistic attitude, aided by a gambler bias, due to the overall uncertainty of punishment.

This approach to committing an offence clearly goes counter to the assumption behind rational choice. Indeed, if potential offenders perceive their future to be predetermined, and themselves as powerless to exert any agency over their future outcomes, no amount of reasoning and weighing of costs and benefits will sway the result. Likewise, no amount of caution or risk minimisation strategies will change the outcome in a system that does not see human action as decisive, or as one person stated, 'If we are involved there, it means that our left foot is already here [in prison]'.

While the vast majority of participants reported taking precautions to avoid a harsher sentence (45 out of 50), when we inquired about the practical actions, for many the precautions simply amounted to being cautious, not dealing with strangers or at night, and overall common-sense behaviour, as exemplified by the following excerpts.

> [A]: I don't want the drug to be ten meters from my body.
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> ***
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> [A]: I would keep the stuff… where people wouldn't find it easily.
>
> ***
>
> [A]: Putting the ecstasy inside a magazine, wrapped inside a brown paper.
>
> ***
>
> [A]: Maybe I left the drug at a friend's house.
>
> ***
>
> [A]: If I separated them in various places, and if something happened and I got caught, I would be caught for the one here or there.

Only some mentioned carrying a specific type of drug (18 out of 47) to reduce the risk of a harsh sentence. Interestingly, when we asked them if they decided to carry drugs under a certain weight to avoid harsher sanctions, a significant portion of interviewees misunderstood the question and instead discussed how they would ensure always having enough drugs to deal. While I cannot draw conclusions based on this misunderstanding, it is quite clear that the primary objective was guaranteeing sales by always being able to satisfy customers' demands, rather than considering how different quantities attract distinct sanctions.

Lastly, we asked them if they had come up with other ways – besides limiting the drug amounts and choosing specific types of substances – to minimise punishment. Thirty-five interviewees out of 51 responded affirmatively, reporting that they had seen bribing law enforcement officials as a minimising technique.

> [A]: Being prepared to bribe an officer.
>
> ***
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> [A]: In the end I couldn't do it. Hmm it was paying a fine.
>
> ***
>
> [A]: Just avoid the person. […] We need some savings to play with.
>
> ***
>
> [A]: In a sense it was like, you are playing with fire, so you better have a lot of water buckets ready. […] Well, when you get caught, sometimes they would ask for some money to sort things peacefully [bribing], or something like that. Well, it means that you are going to need water to extinguish the fire. […] If that didn't work, we gave the 'water' to the prosecutor. […] I had thought of that… but the money was gone, so what else could I do.

This is in line with many previous responses concerning the possibility to get away with a drug offence by relying on the widespread corruption in the Indonesian police

force, and a further indicator of how uncertain punishment is in the eyes of those looking to become involved in criminal activities. Other people described practical precautionary measures such as not having the drugs within a certain range of their body at any one time, producing them in a house in the middle of nowhere to conceal the smell, and avoiding direct contact with buyers. Some then referenced what is known as the *Tempel System*, which is a no-contact exchange, with the drugs being placed somewhere and the couriers picking them up without ever meeting one other.

While all of these methods might have helped them avoid detection prior to the arrest that led to their current conviction, all of these minimising techniques still fall under the common-sense behaviours of someone avoiding detection in the first place rather than someone proactively thinking about how to minimise their punishment once arrested, cognisant of the intricacies of the law.

Uncertainty of Punishment and Corruption

Another common theme was ambiguity about the arrest phase, as many participants thought they had a chance of being bailed out, released without any consequences, bribing law enforcement, or having someone intercede on their behalf. This aligns with the responses to the previous question and highlights an important characteristic of the Indonesian criminal justice system: uncertainty. Due to widespread corruption, it is not outside of the realm of possibilities for an offender to successfully evade prosecution by bribing an officer. Moreover, offenders with personal connections within the criminal justice system might be able to secure release through their influence.

While it might appear reasonable to assume that people with no funds and no personal connections would be better able to assess risk due to their inability to bribe or

sway an officer, there are other considerations to be made. First, they might still be given the opportunity of performing a 'switch' which means providing details about someone higher up in the chain of command in exchange for being released (Rumah Cemara, n.d.). Secondly, some respondents mentioned that they had believed they would be able to use the profits from the drug trade for bribes, without realising that the money would be seized by the police as evidence, leaving them short of any bargaining currency. In summary, independently from the offender's financial situation, arrest is not always certain due to the several ways in which it can be avoided; some participants even mentioned past 'escapes' from the criminal justice system through these methods and their subsequent distorted perception of the actual risk of continuing to engage in the criminal activity.

Overall, this uncertainty of punishment and, perhaps, an over-reliance on the corrupt nature of the police and BNN further diminish the ability of potential offenders to correctly estimate their likelihood of arrest, conviction, and imprisonment. Therefore, our results are in alignment with Nagin's (2013) argument, 'it is the certainty of apprehension not the severity of the ensuing consequences that is the more effective deterrent' (p. 199). Moreover, lessons from game theory suggest that harsher punishments lead to decreased activity or attention of law enforcement; at the same time, it is a more active law enforcement which increases certainty of punishment, effectively reducing offending (Rauhut, 2017). It follows that increasing sanction severity could have the counterintuitive consequence of increasing crime, as it makes law enforcement too complacent and reliant on the harsh punishment to deter potential criminals, reducing their effectiveness. Nevertheless, in applying game theory concepts to the contextual reality of Indonesia, it is important to keep in mind that in a system in which law enforcement officials can profit

from the drug trade by extorting bribes, they might have additional incentives to conduct inspections, even when the theory suggests they would rely on sanction severity to act as a deterrent, therefore decreasing their investigative efforts.

Trust

This section examines how, during the recruiting phase, trust played a significant role, helping the individual discount risks and make rushed decisions. I posit that due to the high levels of trust the interviewees felt for their recruiters, they did not engage in careful risk-rewards calculations that could have deterred them from committing the offence. As recruitment is often the moment when a person is first confronted with the choice between accepting the criminal opportunity or rejecting it, analysing factors that can sway a response towards one of the outcomes is helpful. This allows for a better contextualisation of decision-making within the lived experiences of the offenders, and a higher degree of generalisability.

Trust emerged as a key theme amongst the interviewees, with the entire drug network being based on trust at the interpersonal level, and participants reporting being knowledgeable about how many people were part of their network (44 out of 51).

When we questioned the participants on their recruitment experience, asking them why they thought they had been picked for the illegal 'job', we expected many of them to cite known dire financial situations and someone taking advantage of their circumstances to persuade them into the illicit drug trade. Instead, what emerged was the significance of trustworthiness in people being approached in the first place, and throughout the criminal endeavour as they were trusted with more important roles. Out of the 42 people who responded to the question 'why do you think the recruiter chose you?',

19 talked about being seen as trustworthy, and a further nine attributed it to their long-standing relationship with the recruiter. To this effect, one person said, 'I am honest in my work. If I was given a specific amount of goods, I would return all of the profit. So, he kept trusting me with the goods'. The following are extracts from four different interviews that encapsulate how being timely and honest during a deal, or even while using, can go a long way to ensuring trust is developed and retained.

> [Q]: Okay. Why did your "brother" trust you?
> [...]
> [A]: He knows my character.[...] I was trusted because, how to say it... our hobby was the same [drugs], I consume some [drugs] too. So I like using them [drugs] too. [...] So, I was offered to use them [drugs]. Since I worked with him before. As in out there, working on the materials was only as much as a few hundred grams. Everything was accounted for without reductions.
>
> ***
>
> [A]: I'm straight as an arrow. I don't lie. Since the drugs dealing system are based on trust. So it's take first, deposit money later. I work fast, sell fast and I can be trusted.
>
> ***
>
> [A]: It's hard to find people who could be loyal to their superiors. They knew I won't leak their network.
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> ***
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> [A]: Because my friend put in a good word to this person. They told him I was honest when it came to business.

So far, I have looked at trust in a one-directional manner, namely how and why recruiters came to trust the potential offenders. Now instead I will expand this topic to also include what made the potential offenders trust their recruiters. For instance, one respondent, while discussing minimisation techniques, stated that, 'It's all about trust in the drugs' business. If we don't trust our superior, we'll feel flustered and anxious, and in the end, it will be easier to get arrested'. The main driving factor of trust for would-be

offenders in their recruiters was the close relationship bonds most people had with them prior to the start of the criminal activity, which provided them with enough information about their character to take a chance on the illegal 'job' opportunity. Most people were recruited by a friend (32 out of 50) or an acquaintance (11 out of 50), and only one person was recruited by a complete stranger (Figure 4). On average, a would-be offender had known their recruiter for 8.66 years before becoming involved in the criminal activity.[53]

Analyses of their recruitment narratives shows that most people had been approached by a friend already involved in the criminal activity, often while in the midst of using drugs. This would have made them already somewhat familiar, even if indirectly, with the drug trade. Additionally, this raises the question of whether the mental state of our interviewees had been altered by the drugs at the time of the decision-making, and whether rational choice is even possible when labouring under such an altered state. In the theoretical framework chapter, I reported on the negative impact drug use can have on the limbic system, which regulates the release of dopamine, the hormone which elicits positive feelings, and is responsible for motivation and satisfaction. A dysregulated limbic system, in turn, can affect decision-making by inducing the individual to prioritise immediate rewards above all, supporting rash and irrational decision-making. The level of the impairment appears to be connected to the dose of drugs consumed by the individuals, as studied by Bolla and colleagues (1999, 2002, 2005), who found that heavier cocaine and marijuana use were associated to a more severe neurocognitive impairment. Moreover, several studies have posited that using such substances for a prolonged period of time

[53] It should be noted that many of the people who were recruited by long-time friends could only estimate the length of the relationship, so I conservatively coded every mention of 'twenty plus years' or 'over thirty years', as respectively twenty and thirty years. When people mentioned that they had known the person 'since forever' or their childhood, I calculated how much time had elapsed since their birth until the beginning of the criminal activity.

might permanently damage the areas in the brain responsible for making decisions (Franklin et al., 2002; Matochick et al., 2003, 2005).

The other main narrative, driven by financial need, sees again a friendly figure offering the would-be offender a 'job' as courier, calling into question the perception of the difference between legal and illegal employment, something that from previous answers seemed to confuse some of the participants.

Game theory often explores the concept of trust, as 'trust games' are used to understand the interplay between trustors and trustees. In the games' scenarios, placing trust in someone puts the individual at risk if the trustee betrays them, yet if no actor places trust in the other, both are in a worse position than if one person had trusted the other and the latter had honoured that trust (Rauhut, 2017). This 'game' effectively mimics the dynamics of drugs' business, with a successful partnership only possible if a trusted recruit is found and if they honour the trust that was offered to them.

Trust in recruitment is also a matter of personal disposition and sits at the junction between the individual's circumstances and personality. For instance, the proactive person – environment transaction explains that individuals gravitate towards environments which align with their personality traits (Jones, 2017). This would not only account for the ease of recruitment amongst one's own community, which Felson's (2003) defines as 'offender convergence' (routine activities bringing together motivated offenders in places devoid of capable guardians), but also for how only a few people discussed the immoral nature of their actions.

The presence of a recruiter also reminds us that individuals rarely make decisions without any outside influences. To this point, Situational Action Theory can be helpful in reconciling the influence of environmental factors onto already predisposed personalities

(Wikström, 2004). According to its perception-choice action process, a motivated offender will bypass their moral filter if they perceive crime as an alternative and will default to committing the crime if they have already habitually engaged in it. If it is their first time deliberating whether to engage in the criminal activity, they will also need to fight against controls (self-control, deterrent measures etc.) to reach the decision to offend (Wikström, 2017). This illuminates how the presence of another offending peer as recruiter can help diminish the obstacles to offending by making the situational variables less salient, offering reassurances or modelling a successful criminal behaviour.

Indeed, social learning theories have shed light on the importance of modelled behaviours in individuals' acquisition of skills and knowledge (Rees & Winfree, 2017). Not only are the recruits reassured by the recruiter's confidence, but also by their skills within the trade, copying their behaviours or following their lead because of their trust in their expertise. Indeed, over one-third of individuals offending in group claimed they had been swayed by the 'quick and confident assurances of partners' (p. 6) when uncertainties regarding whether to commit a crime presented themselves (Alarid, Hochstetler, & Burton, 2009).

This is clearly evidenced in our sample by the phrasing used by recruiters. Two words stood out in the description of the tasks proposed during recruitment, aimed at minimising perceived risks: 'just' and 'only'. The following are excerpts from the narratives of interviewees that highlight how the recruiters presented the criminal activity in a more innocent light, further blurring the lines between an informal, but legal type of employment (such as delivering for Gojek or Grab),[54] and an illegal one [emphasis added by author]:

[54] Taxi and delivery services' providers.

> [A] I *only* needed to take the stuff and deliver it along with the girl.
>
> ***
>
> [A] I *just* had to call the number they gave me. [...] 'You *just* need to stand by at 5pm, and someone will call you. You *just* need to pick the stuff up and delivering it. After you are done, let us know, and you'll get the money.'
>
> ***
>
> [A] 'If you couldn't do it, *just* wait for an order. *Just* wait.'
>
> ***
>
> [A] I was *just* to pick up stuff, receive it, and that was it.
>
> ***
>
> [A] 'No, you *only* do warehouse work.'
>
> ***
>
> [A] Well, this was safer since I *only* pick up and delivering and everything has been arranged.
>
> ***
>
> [A] It was not very complicated. I *only* had to deliver and then I got back.'

In summary, knowing the recruiters for years ensured the existence of a pre-established level of trust, cultivated through countless previous interactions, able to assuage some of the concerns inherently connected to drug offending (e.g. fear of being 'ratted out' to the police, not receiving proper guidance on the tasks). These tight bonds between recruiters and would-be offenders also had a deep impact on the decisional timeframe as outlined in the following section.

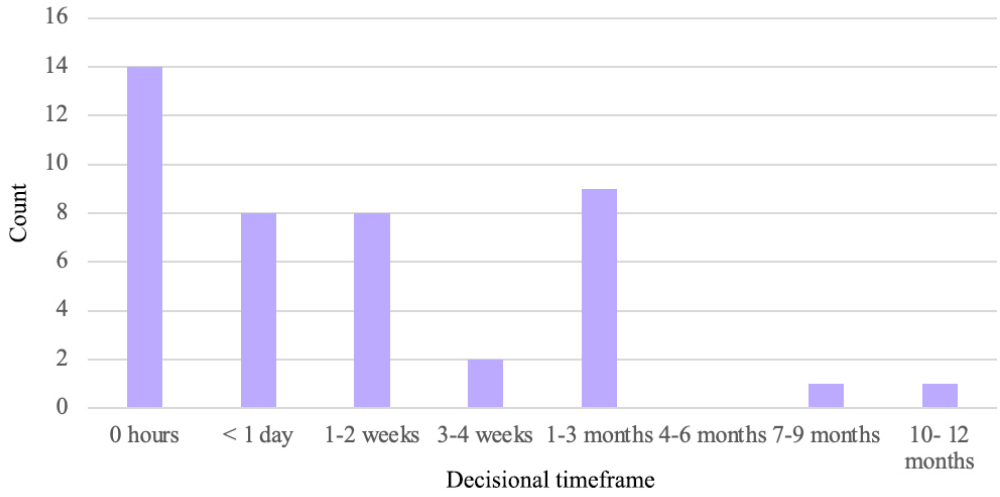
A Matter of Timing

A key aspect of bounded rationality lies in one's ability to make rational choices within a specific timeframe. According to this theory, because we do not have infinite resources to gather information, in this case on the potential criminal act (e.g. legislation, police facilities nearby, exit routes, potential 'snitches' in the network), before even starting the information-gathering process which will lead to a final decision, we set a 'stopping rule' (Simon, 1955). A stopping rule dictates the amount of resources spent gathering information, and could be determined by how much time a person has at their disposal to make the decision, or their ability to access certain information (e.g. '*I will only give myself one week to think about this before making a decision*', or '*I will only research potential consequences by asking my friends, but not others*'). After the stopping rule is met – for instance if a person only allocates a month to figure out who is in a drug network and whether they can be trusted – the person will come to a decision solely based on the information found up until that point. As a result, this process will not have the same guaranteed result as a purely rational choice, but rather it will be a partially educated guess. While less certain, it is a more accurate representation of human decision-making.

In order to assess whether our participants had had an appropriate amount of time to weigh the pros and cons of engaging in the criminal activity, we asked them how long it took them to choose to offend from the moment they were first offered the opportunity. Out of the 43 prisoners that responded to this question, 14 (33%) said they responded immediately, and an additional eight (19%) reported responding affirmatively to their recruiter within the same day (Figure 6).

Figure 6

Decisional timeframe



Hence, half of all the people interviewed spent less than one day deliberating on whether to commit the drug offence, as exemplified by the following quotations.

> [A]: I asked about whether it was scary or not. It wasn't for long, maybe for about an hour because he was still on the highway.
>
> ***
>
> [A]: It was fairly fast, almost instantly.
>
> ***
>
> [A]: I immediately said yes.
>
> ***
>
> [A]: Yes, immediately, when I was offered.

This time frame can hardly be considered sufficient for an individual to gather factual information (e.g. acceptable bribe amounts, sentences depending on quantity of drugs) to accurately assess their risks. Considering the high incidence of drug use amongst our participants at the time of their arrest, as well as their narratives regarding an early

drug using start while aged 10-19, I believe it necessary to call forth concepts introduced in the theoretical framework chapter pertaining to drug usage, personality traits, and decision-making. The personality trait 'low self-control' has been linked to substance abuse, for instance, therefore speaking to the underlying difficulties most of our participants might have encountered when trying to refrain from offending (Gottfredson & Hirschi, 1990). Similarly, the trait 'urgency' has been connected to drug abuse, painting a picture of individuals who consume drugs excessively as having both poor self-control and engaging in fast decision-making in order to access immediate rewards (Fischer & Smith, 2008; Whiteside & Lynam, 2003). As drug consumption also causes pleasurable sensations and a positive affect, something that has been found to narrow individuals' focus on positive outcomes, it is likely that this altered state further supported fast decision-making (Johnson & Tversky, 1983).

For some people, the decision-making process was rendered moot by the overarching perception that being asked to become involved in the drug trade was an opportunity that could not be passed up, as illustrated by the following quote.

> [Q]: How long does it take for you to make decision? To accept the job offer.
> [A]: Didn't take long.
> [Q]: An hour? Ten minutes? A time worth of a cigarette?
> [A]: I don't smoke. When I was called, if I was ready, that day I immediately answered yes. 'Okay, tomorrow you'll do a pick-up. Give me your number, I'll call you later.'
> [Q]: Spontaneously? It didn't take long, huh.
> [A]: Yes, because I thought that a chance doesn't come by twice.

This sentiment was common amongst respondents, and it again raises questions about the blurred lines between formal and informal employment, as well as about the role of legality around these lines.

In a job market that does not allow for good social mobility, and with an average salary among our interviewees of IDR 6.81 million a month (approximately 420 €) – or 5.30 million when two outliers were excluded (approximately 325 €) – the possibility of enhancing one's life conditions through delivering drugs might have appeared as a stroke of good luck. While compared to the national Indonesian average monthly salary of IDR 2.860.630 (approximately 175 €) (National Statistics Agency, 2022), our participants appeared to be quite wealthy, Horizon.com reports salaries specific to Jakarta (where all our participants were imprisoned) to gravitate around the IDR 8.66 million mark, therefore higher than the amount our interviewees were making through their legal employment.

If we consider then that delivery drivers in Jakarta – one of the most highly represented jobs within our sample – earn half (IDR 4.2 million) of the average salary for the city, it is unsurprising that the temptation to do similar jobs in an illicit trade for higher returns persuaded some people to be involved in the drugs trade.

A further eight prisoners reported thinking about offending for approximately one or two weeks, and another two took up to a month (Figure 6). A theme that emerged from several of the interviews was falling into the drug trade due to lack of legal job prospects; one person mentioned that it took them one week to decide 'because in that one week, I tried to find other jobs and couldn't get any'. As many of the participants already had previous convictions (25 out of 54 for any crime, and 12 out of 52 for the same drug crime), re-integration within society was complicated by their 'ex-con' status, making it harder for them to find employment, but with close connections to a wider criminal network as a result of their time spent in prison. Moreover, as most of the people were

recruited by a close connection, they are likely to be reintegrated within a partially criminal network, as evidenced by the following quote.

> [A]: So, before I was released, my friend told me that if I ever needed to come back doing that, I could just inform him. We were helping each other. If they had more help, they could get points to get money. [...] It was less than a week – after I was released – that I decided that I wanted to get back on that road again [get back into the drugs trade].

These results align with Sutherland's (1939) Differential Association Theory, explaining the influence of peers on an individual's antisocial behaviour, through the development of alternative values, attitudes, and beliefs. Considering the importance Indonesian society allocates not only to the family unit, but to the respect of authority figures within the family, ideas of differential association might be less salient, or might shape behaviour without necessarily changing people's core beliefs regarding criminality. Yet, it is worthwhile to note that Indonesia has not been impermeable to the socio-cultural shifts in interpersonal and familial relationships which have marked human history since World War II. Already in 1997, Hugo posited that these shifts would disempower the elderly in their role as household providers, and that an increased individualistic attitude would also diminish the influence of the older generations over the younger ones. However, none of our participants was dissuaded from committing the offence despite 40 of them (out of 53) stating that their loved ones had been aware of their criminal endeavours, and specifically that 34 out of these 40 had tried to convince them to give up offending (see Chapter Four). While the participants appeared to care deeply for their loved ones and did not want to disappoint them or endanger them in any way, their association with other offending peers (especially amongst drug users) or the temptation of higher profits won over in the end.

Among the people that spent more time thinking over their potential engagement in the criminal activity, nine took between one to three months, and another two thought about it for over seven months (Figure 6). One person stated 'they took me out a few times. And approximately a month after that, I finally said yes'.

In summary, if we consider that any rational choice needs adequate timing to gather all the necessary information, we can state that the individuals in our sample were constrained by a 'bounded rationality', in which the stopping rule in about half of the cases was to make a decision by the end of the day. Hence, they did not employ sufficient resources, including cognitive ones, to be able to get a clear picture of the risks of arrest, conviction, and incarceration. A case could be made that those who had been previously involved in drug consumption could have garnered that knowledge through the years within the community. However, as drug possession for personal use tends to attract considerably lighter sanctions than drug dealing (including diversion to rehabilitation facilities rather than incarceration), drug users would still have needed to know legislation beyond their law-breaking, or to have heard through word of mouth about the punishments for dealing. Additionally, the skills and resources needed for the two activities (using and dealing) are different; while both are based on an avoidance of police scrutiny and basic knowledge of drug prices, the higher risks inherent in delivering and dealing drugs require individuals to approach it with more organisation and resourcefulness. Lastly, while a drug user might be able to easily bribe their way out of being arrested due to the low quantity of drugs possessed, people involved in the drug trade as couriers might not be offered the same opportunity or might not be able to afford the bribe necessary for the police to look the other way, given the higher quantities they were caught carrying. As one person stated,

> [A]: That last time I was asked to pay half a billion. Since I was too late in giving the money, it couldn't be done. All of the documents were done processed, and I was already sent there. If I hadn't been flown here, I might be released. But it was also hard to get half a billion.

Wilson and Herrnstein's pioneering work (1985) was the first to draw attention to the significance of time discounting in explaining criminal behaviour. Not only are sanctions perceived as an uncertain future, but the short time frame utilised to make the decision points toward a rational myopia, in which the choice of dealing or doing drugs in the short term might appear preferable and even rational. It might deal with withdrawal symptoms, or offer the solution to impending financial woes, or the opportunity to immediately enhance one's status and self-esteem. Apprehension and conviction, in this case, simply fall outside of the time frame in which a potential offender is calculating their odds (Elffers, 2017). Moreover, Felson (2003) argues that even impulsive choices might actually derive from unconscious drives or implicit circumstances which compound to a breaking point: the commission of the crime. Giving in to the impulse to offend, satiating a swift desire for wealth or drug consumption, is not only buttressed by current consumeristic values, but also validated by the internalisation of irrational decision-making 'strategies' which are themselves a product of late-stage capitalism, where the individual and their whims are elevated above the rest, in a carnival of the senses and of the self (Hayward, 2007). In this context, the concept of liminal experiences and edgework becomes particularly relevant, as, according to Reith (2004), risk-taking behaviours are shaped by modern consumer culture, which simultaneously promotes self-control and indulgence. In turn, as the 'high' experienced by negotiating the risks associated to drug offending fosters a sense of authenticity and self-determination, the motivation for drug

offending goes beyond simple rational calculations of risks and rewards, but rather reflects a deeper emotional relationship the individual has with the criminal act.

The high degree of trust the would-be offenders had in their recruiters, as well as potential cognitive fallacies and a fatalistic attitude driven by the overall uncertainty permeating the corrupt criminal justice system, all limited the interviewees' abilities to make an efficient risks-rewards calculus. This goes counter what is expected by RCT in its most rigid conceptualisation, as assumed by the Indonesian government in its punitive agenda.

Discussion

The findings of this chapter shed light on criminal decision-making processes amongst Indonesian drug-offenders, underscoring how they exhibit greater complexity than the government's perspective based on classical RCT, almost solely reliant on punitive measures. In this regard, the role of sanction severity is notably diminished, and its influence is often discounted due to a combination of concurrent factors and circumstances. This observation is in accordance with the principles of game theory, according to which more severe punishments do not indeed decrease crime rates (Rauhut, 2017). Furthermore, these sanctions would be perceived by a prospective offender as distant events in the future, while the rewards would be immediate. This temporal trade-off between costs and benefits, named intertemporal choice, is pivotal in shaping decisions. Within a criminal decision-making framework, this implies that the more a sanction is future oriented, the less costly it is going to appear during the decision-making process (Nagin & Pogarsky, 2001).

Psychological perspectives

Alternative theoretical frameworks might more adequately describe decision-making processes of drug offenders within the Indonesian context.

The significance of trust in the recruitment process, as well as the rapid decisional timeline lends weight to the dual-process perspective of decision-making introduced in the theoretical framework chapter. This model posits two cognitive systems. 'Cool' cognition is a rational, systematic, and analytic decisional process, which can be susceptible to probabilistic knowledge. 'Hot' cognition instead is reactive, automatic, based on intuition and emotion, vulnerable to heuristics and biases, as well as to environmental factors (Gerrard et al., 2008).

Indeed, certain sets of circumstances, such as heightened emotions, can influence this delicate balance, favouring the 'hot' state (Apel & Nagin, 2017). 'In the heat of the moment', individuals may restrict what they perceive to be their alternatives, narrow their sources of information, distort their cost-rewards perceptions, and sway the calculus towards the latter (Loewenstein, 1996). Additionally, Johnson and Tversky (1983) found that individuals have a tendency to be more optimistic in their risk assessment when experiencing positive emotions. As Tibbetts (2013) states, 'emotional traits and states of individuals may be more important factors that those of traditional deterrence/rational choice factors in making decisions to commit criminal acts' (p. 234). Dual processing models therefore offer an explanation for why the individuals in our sample decided to commit crimes even when it went against their own long-term benefits. According to van Gelder and de Vries (2014), the decisions made in such 'hot' states, tends to be 'largely unresponsive to outcomes and probabilities' (p.4).

According to these scholars, individuals can make quick decisions in the heat of the moment without significant cognitive resource consumption; only in certain cases our 'cool' or slow cognition is able to calibrate pros and cons and engage in rational decision-making. Considering that all individuals in our sample indicated a need for either financial gain or access to drugs, it is plausible that 'hot' cognition triggered an automatic reaction without the 'cool' cognition's capacity to intervene effectively. This would explain why they decided, often within the span of minutes, to offend despite their adequate knowledge of the risks and of potential consequences.

Sociological perspectives

The individuals in our sample also showed a fatalistic attitude towards criminal behaviour. This perspective, coupled with a low perceived certainty of apprehension, can be attributed to the pervasive corruption within the criminal justice system. These factors were compounded by the deep trust bonding recruiters and recruits, often prompting swift decision-making, sometimes almost immediate. This aligns with Trembley's (1993) findings that the selection of co-offenders can be seen as a 'market phenomenon' in which an individual chooses a co-offender based on their expertise or the advantages they offer to the group, as well as their trustworthiness.

As one's risk perception can also be shaped by the experiences of surrounding individuals, the interviewees' risk perception is likely to have been impacted by the criminal careers of the friends and acquaintances that had recruited them (Stafford & Warr, 1993). Research found that people tend to decrease their risk perception of arrest if they, or people around them, manage to commit crimes without being apprehended (Anwar & Loughran, 2011; Wilson et al., 2017). In turn, because the individuals in our

sample were likely to have witnessed acquaintances be arrested or to have known of the precarity of their criminal endeavour, their risk perception had still been quite high. Yet, their criminal behaviour remains at odds with their risk perception, possibly due to the dual-processing model previously described and the bounded nature of their rationality.

The fatalistic attitude observed in this study underscores interpersonal psychological variations in risk perception, implying that a section of the population might be more susceptible to impulsive decision-making, as also supported by biosocial research (Cardinal, et al., 2002; Koob et al., 2004; Robbins & Everitt, 1996). For instance, Nagin and Paternoster (1993) found that individuals with low self-control 'would perceive a higher utility for crime since the rewards are immediate, would discount the costs since they are delayed, and would be insensitive to social censure' (p. 483). High scores on scales regarding impulsivity, self-centredness, temperamentality, a desire for simple tasks, risk preference, as well as a preference for physical activity are indicative of low self-control (Grasmick et al., 1993). Impulsive behaviour in itself can be caused by different traits, as delineated by Whiteside and Lynam (2001): urgency, premeditation, perseverance and sensation seeking. People that score high on the latter, for instance, tend to overestimate the benefits of risky behaviour (Maslosky et al., 2011). Additionally, people who are impulsive tend to be more susceptible to environmental stimuli, and therefore are more likely to rely on 'hot' cognition; this explains why criminal decision-making amongst impulsive individuals often lacks planning or analytic thinking, since these processes are underpinned by 'cool' cognition (Evans & Stanovich, 2013; Hofmann et al., 2009; Kahneman, 2011;).

Another hypothesis that could explain why the participants discounted the known risks during recruitment and rapidly decided to commit the offence is provided by the

literature on persuasion. According to Petty and Cacioppo (1986), there are two pathways to persuasion. The first, named 'central route', involves a person's thorough and deliberate evaluation of the merits of an argument as expressed by the source; the 'peripheral route', instead, is dependent on contextual cues, such as an appealing or trusted source, requiring less careful examination of the actual content of the information transmitted. The trust that the recruits had in the recruiters, as well as the criminal expertise they associated with them, and the guarantees of future help against apprehension or conviction (bribes) that some recruiters had offered, might have triggered the peripherical route rather than the central one. This would have allowed them to make a quick decision based on the positive characteristics of their bond with the recruiter, rather than the actual content of the recruitment information. In other words, the complexities of the criminal offer were possibly overshadowed by the sender-receiver interplay.

Overall, this pervasive sense of a lack of personal agency skews and even renders moot the risk assessment process. Even if an individual is led by rational and analytic cognition, emotions and *affect* can still play a role in tipping the scales from non-offending to offending, in what Slovic and colleagues (2004) characterise as a 'faint whisper of emotion' (p. 312).

This alternative and more flexible perspective is corroborated by the systemic corruption within the Indonesian criminal justice system, which introduces significant uncertainty into the risk assessment phase. Many individuals in our sample had previously evaded arrest or had witnessed or heard of others avoiding apprehension through bribery. These variables add a level of intricacy that defies rigid conceptualisations rooted in classical RCT.

Consequently, it invalidates the government's reliance on harsh punishment as the primary deterrent against drug offending. Scholars, including Heath (1976) and Coleman (1986), have pointed out that, even when analysing very specific circumstances, a direct application of the economic model of rationality to 'real players' presents severe 'deficiencies'. While highlighting these deficiencies, it is however necessary to note that rational choice theorists nowadays do not operate with such rigid assumptions (Akers, 2017). Yet, governments and policy makers at large often do not seem to appreciate such nuances. It becomes clear then that it is necessary to take into consideration dispositions and preferences in the study, and application, of rational choice perspectives. As Thomas, O'Neill and Loughran (2022) point out, 'by omitting preferences in prior tests of choice theories scholars are failing to test theories in their entirety' (p. 20).

6. Informal sanctions

Introduction

According to Grasmick and Green's (1980) 'deviance inhibitory model', decisions not to offend can be attained through the interplay of normative constraints on the willingness to offend. Such constraints involve the internalisation of moral values, as well as the threat of imposition of both formal and informal sanctions. In the previous chapter, I extensively detailed the role played by legal punishments in potential offenders' decision-making processes. In contrast, the current chapter focuses on informal sanctions, which involve more complex and multi-faceted dynamics. Informal sanctions encompass all the indirect personal consequences stemming from criminal behaviour, spanning domains such as employment, familial dynamics, romantic relationships, social mobility, and one's standing within the community. They are also more idiosyncratic as, depending on the level of enmeshment within the broader community, some people might be more susceptible than others to the negative outcomes of societal outrage against their crime. Theoretical frameworks that focus on the role of individual characteristics in decision-making around criminal behaviour have been classified as 'theories of the person'. These theories posit that individuals develop idiosyncrasies early in life which are stable through time and not significantly impacted by subsequent socio-economic developments in terms of propensity to commit crimes (Nagin & Paternoster, 1994).

An example of how these personal characteristics and individual differences can indirectly influence criminal involvement is presented by Nagin and Paternoster (1994). Their research reveals that individuals characterised by a more present-oriented and self-

centred disposition tend to form weaker attachments and demonstrate a diminished commitment to the community surrounding them. Consequently, they will not be as vulnerable to the feelings of guilt, shame and embarrassment which are crucial for the efficacy of informal sanctions in preventing crime. Another salient individual-level characteristic which directly impacts offending is one's personal attitude towards societal norms, which Pogarsky (2006) divided into the following categories: acute conformist, deterrable, and incorrigible. His findings underscore that disapproval, particularly when originating from the self, is a key deterrent for those who are 'acute conformists', significantly impeding the potential development of a criminal career. Incorrigible participants instead appeared to be more impulsive, which the author attributes to the interplay of psychological and developmental factors.

Furthermore, an additional individual-level difference which is worth mentioning is one's belonging to a minority group. Research from the United States found that Black individuals tend to perceive informal sanctions as less impactful, potentially due to the fact that they tend to benefit less from the social order, therefore making societal norms less salient. Yet, the authors report a nuanced perspective, suggesting that while Black respondents may perceive informal sanctions as less threatening, their (typically) lower socio-economic status might instil a heightened fear of formal responses. This might explain why White respondents perceived greater threats from informal sanctions, while Black respondents expressed more concern about formal responses (Blackwell, Grasmick & Cochran, 1994). While theories of the person may seem at odds with rational choice approaches, Nagin and Paternoster (1994) argue that 'there is no fundamental incompatibility between rational choice theories of offending and the theories of Gottfredson and Hirschi (1990) and Wilson and Herrnstein (1985), both of which

emphasise the link between antisocial behaviour and enduring individual differences in something akin to "criminal propensity"' (p. 583). Although individual characteristics can indeed render a person more vulnerable to engaging in criminal activity, extant research underscores that also 'the inhibition of, or a propensity toward, criminal involvement influences: moral beliefs, informal social sanctions; and some kinds of conventional commitments' (Paternoster et al., 1983, p. 478).

Despite the greater attention in the literature to formal sanctions, in recent years studies have endeavoured to address the dearth of research by analysing both informal sanctions in isolation, at times deconstructing them into smaller units (e.g. moral beliefs, stigma, embarrassment etc.), as well as exploring their interplay with formal sanctions. This section will now present key findings from the major studies conducted in the field of informal sanctions, followed by a discussion of their most significant contribution to our understanding of their relationship with legal punishment.

Within the perspective of perceptual general deterrence, Williams and Hawkins (1986) identified 'stigma of arrest (reputational damage), attachment costs (relational damage), commitment costs (judgement of past accomplishments being jeopardised or being foreclosed or being made more difficult to achieve)' as crucial elements to take into consideration during criminal decision-making processes. A study observed that stigma, especially self-stigma due to being arrested, played a pivotal role in deterring incidents of spousal assault within a sample of adult men (Williams & Hawkins, 1986). Similarly, Grasmick and Bursik (1990) found positive associations between shame and deterrence. According to Williams and Hawkins (1992), informal sanctions can only exert power over the individual's decision to offend if the community surrounding the person becomes cognizant of their involvement in the criminal activity. This underscores an interesting

nexus between conceptualisations of RCT which include informal functions, and interactionist perspectives such as labelling theory (Becker, 1963). It also opens avenues for explorations within theories of social constructionism (Berger & Luckman, 1966), prompting an examination of how societies construct meanings around behaviours deemed amoral, hence stigmatizable, and criminal, thereby subject to both formal and informal sanctions. I will further explore these connections in the discussion section, in light of the results from the current study.

In regard to the effectiveness of informal sanctions in preventing criminality, Nagin and Pogarsky (2003) discovered that potential informal sanctions which would have been triggered by being caught cheating were sufficient to dissuade students from engaging in academic dishonesty. Indeed, numerous scholars argue that informal sanctions might actually be more potent than legal punishments in instilling fear in the decision-makers and, consequently, in swaying rational decision-making toward non-offending outcomes, some going as far as to say that 'for the majority of people the most degrading aspect of punishment is the social message it conveys' (Zimring & Hawkins, 1971, p. 39; see also Geerken & Gove, 1975; Nagin & Pogarsky, 2001; Paternoster, 2012; Tittle, 1977). Paternoster (1983) went a step further, analysing other aspects of deterrence theory, such as severity and certainty, finding that both variables became statistically insignificant once the sample was controlled for informal sanctions. Moreover, perceived informal sanctions appeared to be more impactful than perceived certainty and severity of punishment, albeit only slightly, with both 'the perception of certain punishment and the perception of informal sanctions [...] strongly and independently associated with marijuana use' (Anderson, Chiricos, & Waldo, 1977, p. 113).

Through the years, two main hypotheses have emerged. The conditional hypothesis posits that 'the real deterrent function of legal punishment is the threat of being exposed as an offender to one's peers who then would impose informal sanctions. Therefore, if there is no threat of these informal sanctions upon exposure, the threat of legal punishment would be an ineffective deterrent' (Grasmick & Green, 1980, p. 329). As previously mentioned, community knowledge is a necessary element for informal sanctions to be triggered into action; according to this hypothesis then, formal punishment is only effective insofar as it 'outs' (exposes) the offender to the disapproval of their community (Jacobs, Topalli, & Wright, 2000). Supporting this hypothesis, a study found that individuals who did not expect their criminal actions to elicit a high degree of social disapproval were not dissuaded by the prospect of formal punishment (Tittle, 1977). Conversely, another study yielded opposite results, with the influence of legal punishments having a more significant impact on those who felt less threatened by informal sanctions (Grasmick & Green, 1980). Moreover, examining self-reported speeding violations in a sample of Midwestern American adults, Grasmick and Appleton (1977) reported that 'the perceived threat of legal punishment, regardless of the perceived level of stigma contingent upon disclose, has a significant effect on frequency violation' (p. 25), challenging the conditional hypothesis. Instead, their results point towards the effectiveness of certainty of legal punishment as a deterrent for offending.

This lack of consensus in existing literature likely stems from variations in samples, individuals' motivations for committing the crime, as well as their commitments towards the wider society and their level of enmeshment with their community. It is also my opinion that reducing the role of legal sanctions to a mere signal of wrongdoing, exposing the individual, dangerously shifts the dialogue away from the negative impact the legal

sphere can have on the individual. In fact, if we were to subscribe to the conditional hypothesis and assume that legal punishment impacts the individual only if informal sanctions are triggered, the negative repercussions of formal punishment (e.g. mental, physiological, and economic strain caused by incarceration) would be considered inconsequential if not accompanied by informal sanctions. Furthermore, this hypothesis does not take into consideration an individual's positionality, particularly in cases of affiliations to deviant subcultures or residence in communities where informal sanctions carry minimal weight. In fact, according to this hypothesis, individuals in such situations should not fear legal punishment at all, as even if arrested and convicted, no informal sanctions would be triggered (Grasmick & Appleton, 1977).

Wrong (1963) instead proposes a different perspective wherein formal and informal sanctions have an additive effect. Grasmick and Green (1980) argue in support of this hypothesis, asserting that moral commitment, perceived risk of legal punishment and risk of social disapproval together form a model able to explain why some individuals decide against committing offences. Other studies which have examined the relationship between the different typologies of sanctions lend support to this hypothesis (Anderson, Chiricos, & Waldo, 1977; Burkett and Jensen, 1975; Grasmick & Appleton, 1977).

While the additive model garners broader support, it is important to consider the possibility that legal sanctions may indeed enhance the power of informal sanctions by increasing their saliency, bringing into question the linearity of the additive operation. Nevertheless, rather than proposing the extreme stance of the conditional hypothesis, I propose that legal punishments might amplify the deterrent power of informal sanctions. The confirmation or rejection of this proposition, however, lies beyond the scope of this thesis.

In conclusion, I echo Williams' appeal: 'what is needed is explicit recognition by deterrence researchers that the legal conceptualisation of deterrence is at best less than half of the picture and that a subsequent expansion of activity to determine the full parameters of a more general concept is warranted' (p. 149). It is with this spirit in mind that the current study seeks to understand what role potential informal sanctions played during the decision-making processes of the individuals in our sample.

To examine the weight that informal sanctions held during the decision-making process of our interviewees, we asked respondents how important certain considerations were in making the decision about whether to commit the offence that had resulted in their imprisonment. The items encompassed possible social costs, such as being suspended from one's job and so losing the respect of close friends, family members, important neighbours, and other adults, as well as their romantic partner; along with the costs associated with difficulties finding future employment or residing in desirable places. We employed a scale assessing these perceived social costs of punishment developed by Loughran and colleagues (2012), who adapted a previously existing scale by Nagin and Paternoster (1994). This scale is composed of seven statements, to which participants must respond by choosing a number on a five-point Likert scale, with one indicating 'not important at all', and five indicating 'very important' (they were also given the possibility to choose 'not applicable'). Loughran and colleagues (2012) report an acceptable internal consistency for this scale (Cronbach's $\alpha = .68$ at baseline). Before reporting the results, I believe it necessary to caution that, occasionally, when discussing their anticipated informal sanctions, some individuals conflated such concerns during the decision-making process with worries which they had developed through hindsight, or they referred to what had actually happened as opposed to what they had expected to occur.

Work Sphere

The dimension of employment represents a crucial facet of social control, possessing the capacity to inhibit delinquent behaviour. It serves a dual purpose as it rewards the individual by increasing their social status and strengthening adult social bonds, which facilitate the deflection of childhood pathways to criminality (Samson & Laub, 1993; Nagin & Paternoster, 1994). Moreover, employment makes criminal endeavour more economically costly since, if a person is apprehended and convicted of a crime, they will likely be suspended or dismissed from their job (Fagan & Meares, 2008).

To gauge the significance of employment outcomes, we asked the prisoners in our sample to rate the importance of job retention in their previous decision about whether to commit the drug crime they are currently incarcerated for. Nearly 45% of the respondents (21 out of 47) attributed great importance to the prospect of being suspended from their job, with an additional five indicating that it had been somewhat important. Conversely, only four people deemed employment as not important at all, a further five had deemed it somewhat unimportant, and another seven individuals expressed a lack of concern by responding with either 'unimportant' or 'no'. In summary, over half (55%) had believed suspension from their job to be an important consideration in deciding whether or not to commit an offence, while 34% reported having been unconcerned. While six people chose the 'not applicable' option meant for those who were not employed at the time of their decision to commit the offence, 25 people had previously reported not being employed at the time of the arrest. Therefore, this suggests a potential overlap, where some individuals claiming employment insignificance might have been unemployed. It is important to acknowledge, though, that the majority of prisoners stated they had been involved in the

drug trade for an average of one to five years, during which their employment status could have changed. Lastly, due to the drug trade often offering better financial rewards than legal employment,[55] the increased unemployment rate from the first offence to the day of arrest would be in line with the literature on the negative correlation between engagement with a criminal activity and employment rate (Hagan, 1993; Thornberry & Christenson, 1984; Uggen & Wakefield, 2008). Notably, a study by Anderson (2000) found, for instance, that young men in the urban area of Philadelphia considered the drug trade as both a prime employment opportunity and a way of gaining status.

Secondly, we asked the participants about their level of apprehension, at the time they committed their offence, about the potential for their involvement in criminal activities to have a negative impact on future job prospects. Two-thirds (27) of the 41[56] respondents asserted that it had been a very important concern, with only six saying it had not been important at all, and three said it had been 'somewhat unimportant'. It was common knowledge amongst the interviewees that having a criminal record would diminish their chances of securing legal employment in the future with some people even reporting getting into the drug trade after a previous conviction due to their lack of legal job opportunities. The following excerpts represent the the views of some of the participants on the matter.

> [Q]: Before you got into prison, were you still employed? Or not?
> [A]: I had already resigned.
> [Q]: But did you have any other job?
> [A]: I was actually waiting for another job.
> [Q]: Oh, okay.
> [A]: Because I was waiting for a job, I took this drug job.

[55] In our sample, the average salary from legal employment was IDR 5.30 million, while income inclusive of drug profit was IDR 39 million.

[56] I did not include ten responses since the interviewees said they had not thought about it previously, or that it had merely crossed their mind, without indicating the level of importance.

> [...]
> [A]: Yes, my salary didn't increase, and my wife was pregnant and our needs were also increasing. [...] I tried to find a better job, I mean, I resigned from [legal occupation] while I waited for news from a friend.
> [Q]: What news?
> [A]: News from my friend about a driver job opening. To become a chauffeur. And then, while I waited, I got involved in this drug trade.
>
> ***
>
> [Q]: How relevant does delivering drugs make it harder for your to look for a job?
> [A]: Very relevant, since it's the comfort zone, so there will be a temptation and getting lazy.
>
> ***
>
> [A]: Very important. But I was already a delinquent, ma'am. So, it didn't make that much difference.
>
> ***
>
> [A]: Somewhat important. I think I somewhat thought of that.
>
> ***
>
> [A]: Yes, it might affect my job pool.

These findings echo previous scholarship which attested to the damaging impact of criminal records on employment opportunities. Moreover, research conducted by Western (2006) on the link between incarceration and economic inequality found that African Americans who had experienced incarceration earned $7,020 a year after their release, as opposed to the average of $13,340 which they had earned before their incarceration. Notably, even before individuals are incarcerated, those who are 'bound' for prisons earn less; in fact, the same study found that white Americans 'bound' for prison earned an average of $11.14 an hour, compared to those in the control sample, who earned $14.70. This disparity in employment outcomes is likely due to the demographic, educational and

financial profiles of those who are 'bound' to be incarcerated, another important aspect highlighted by our study, as discussed in Chapter Four.

In summary, a notable observation emerges from individuals who were employed at the time of the commission of the crime: the loss of employment had been consistently identified as a significant negative consequence of engaging in the drug trade. Moreover, 66% of overall respondents had been aware of, and concerned about, the detrimental effect that drug offences would have on their future employment opportunities. Yet, this knowledge and these concerns had not been sufficient to stop them committing their offences; in accordance with RCT, they were insufficient to constitute a substantial enough 'cost' to outweigh the perceived benefits of engaging in criminal activities. An alternative perspective, and one of the arguments that I will further explore in the following section, posits that the contradiction between their attitudes and behaviours found its resolution in the neutralization of their worries to the benefit of the continuation of the offending behaviour.

Social Sphere

Before presenting the results related to the social sphere, it would be helpful to introduce three pivotal concepts. The first is the idea of *(dis)utility*, which represents all the costs associated with the loss or damage which criminal activity causes to social bonds. Secondly, *personal capital* encompasses the extent to which individuals invest in commitments for their future and attachments to other individuals. Lastly, the idea of *individual discount rate*, which is the 'willingness to trade-off current versus future consumptions' (Nagin & Paternoster, 1994, p. 587). These concepts will be crucial to a good understanding of the relational dynamics and decision-making processes among those we interviewed.

To assess the impact of the social sphere on their decision to offend, we asked participants how important the following factors had been during the decision-making process which led them to commit the offence they were currently incarcerated for: losing the respect of the most influential people in their lives, specifically their close friends, family members, neighbours, and important adult figures, as well as of their romantic partner or spouse. In the effort to Southernize criminology, it is crucial to examine the relationships between our participants and the important people in their lives, given that the prevalent assumption of Western relational standards in the current models may not be universal. I was particularly interested in exploring whether the higher importance Asian cultures afford to familial relationships (Chao & Tseng, 2002) would translate to heightened concerns in the familial and neighbourhood sphere.

These expectations were met for the familial aspect of informal sanctions, with a substantial 65% (33 out of 51) of prisoners affirming that losing the respect of their family members had been a very important consideration when they had been thinking about committing the offence. An additional nine had deemed it important or somewhat important, bringing the total to 42 out of 51 who had considered this informal sanction to be significant. Indeed, only seven individuals reported the loss of respect from their family as not having been important. The following are excerpts from the interviewees which exemplify the participants' view.

> [A]: Important, me, my children, they've grown [...]. Both of them had lost their father figure. They often cry when I call back home.
>
> ***
>
> [A]: Yes, especially I was the backbone of the family.
>
> ***

> [A]: It's important actually, but I mean we (unclear) use [drugs] until we lose our family. We didn't think that far.
>
> ***
>
> [A]: I did, but… My family was distant from me, so their respect was gone already.
>
> ***
>
> [A]: If it's from the family, it's really important.

Likewise, 27 out of the 46 respondents acknowledged the possible loss of respect of their romantic partner or spouse had been important, while 16 expressed no preoccupation with it. As 22 people in our sample had reported being single, it is plausible that those who had not been worried about losing the respect of a romantic partner had also been single at the time of the criminal activity or arrest. Notably, one person did state that the lack of concern had derived from his girlfriend's similar involvement in the drug trade. For those who did harbour fears regarding the loss of respect of their loved ones, there was also the additional concern about the possibility of being removed from their company, if caught and incarcerated, and what would happen to them in their absence.

> [A]: Who'll take care of my parents?
>
> ***
>
> [A]: Afraid if I got caught again, what would happen to my family. My younger siblings. All of them… They wouldn't want to take care of me anymore… or be associated with me.

It is worthwhile to explore in more detail the possible reasons behind the lack of concern expressed by certain respondents, as it ties in with the broader social environment in which these prisoners used to be embedded prior to their arrest. In fact, we know from previous inquiries concerning their recruitment that two people were offered the

opportunity to enter the drug trade by family members. Indeed, one respondent who had deemed this outcome as unimportant, clarified 'because my wife eventually supported me', while another said, 'well, my girlfriend was a seller, too. Well, she offered', and lastly one person mentioned that he had been caught together with his girlfriend and tried in the same case. However, the lower concern for the loss of respect from a romantic partner compared to the loss of respect from family members can be predominantly attributed to the relationship status of our prisoners. Among the 55 participants who provided information on their relationship, 40 were either single (22, 40%), separated/divorced (15, 27%) or widowed (3, 5%). Still, it is important to acknowledge that these data reflect their status at the time of the interview, a status that may have been affected by the imprisonment and its likely impact on significant relationships.

In summary, despite 65% of people having worried about losing the respect of their family members and 63% of prisoners reporting previous concerns about losing the respect of their romantic partner or spouse, these troubling consequences of engaging in the drug trade had not been enough to stop them from pursuing the criminal endeavour.

This dilemma is clearly portrayed in the words of one of the prisoners who said that losing the respect of their spouse had been 'truly important, but I chose marijuana. But my wife is much more important to me, she's the biggest blessing in my life'. This friction between beliefs and behaviour is a common contradiction inherent to human nature and was defined by Leon Festinger (1962) as 'cognitive dissonance'. According to this theory, because behaviours (especially routine ones) are hard to change, an individual is more likely to shift their beliefs or to neutralise them in order to alleviate the discomfort caused by the cognitive dissonance between behaviour and belief. This offers a potential

explanation to how people can profess their fear of losing the respect of their families and loved ones, but still commit acts that endanger these relationships.

Furthermore, Grasmick and Bursik (1990), while studying the effects of state-imposed costs, socially imposed costs and self-imposed costs found that 'socially imposed embarrassment appears to be inconsistent with the rational decision-making model. For none of the three offences did the threat of embarrassment have a significant inverse direct effect on the log-odds of intending to commit the offence' (p. 854). As embarrassment caused by societal outrage is often concomitant to stigma, it is to be noted that in order for stigmatization to be an effective sanction, the event which causes such stigmatization needs to be uncommon, as 'policies that are effective in the short term may erode the very basis of their effectiveness over the long run if they increase the proportion of the population who are stigmatised' (Nagin, 1998, p. 5). Simply put, if people believe punishment to be unavoidable, randomly administered, and a frequent happenstance in their community – as the people in our sample maintained – they are less likely to fear stigmatization and to try to avoid it by refraining from engaging in criminal activities. However, other studies have found opposite results, with factors like stigmatisation and embarrassment being heavily involved in the development and maintenance of conformity to legislation (Paternoster et al., 1983).

It is worth noting that existing research has found that neighbourhood characteristics, like cohesion, feelings of responsibility towards the community, and knowledge of the members of the neighbourhood mediate the stigma costs perceived by offenders (Fagan & Meares, 2008). The hypothesis that neighbours and important adult figures would have also exerted significant peer pressure was only partially supported. Although 11 out of the 51 respondents stated that in making the choice about whether to

offend, losing the respect of neighbours and important authority figures had been a very important consideration, an equal number of people had deemed it not important at all (11 out of 51). Overall, 20 people had considered it unimportant to some degree, while 24 people had regarded it as important. We should not, however, presume this factor to be normally distributed. Nor should we presume that comparison samples would be normally distributed. In Northern countries, where neighbourhood and community relationships may not be prioritised as much as in Southern countries – and specifically South and Southeast Asia – such a distribution could have a different shape, with most people leaning towards considering the opinions of the individuals in their neighbourhood as unimportant (Carpenter, Daniere, & Takahashi, 2004; Putnam, 2000). It is also possible that our interviewees belonged to neighbourhoods devoid of social characteristics which would trigger informal sanctions. As Fagan and Meares (2008) report, 'often the social structure of a neighbourhood provides a better explanation of high crime rates associated with a neighbourhood than the individual-level demographic characteristics of offenders. [...] By focusing on mediating community social processes such as the level of supervision of teenage peer groups, the prevalence of friendship networks, and the level of residential participation in formal organisations, social organisation theory helps to explain the link often noted between individual-level factors, such as race or socioeconomic status, and crime' (p. 187, 172-173). This argument appears particularly salient in our sample, considering that the majority of individuals were recruited within their friendship network, and started engaging in drug-related criminal activities during adolescence.

According to perspectives of informal sanctions, the imposition of embarrassment and loss of respect by influential community figures constitutes socially imposed costs, while shame and guilt serve as internal sanctions imposed by the self. The latter could then

unsettle a person both physiologically and mentally, potentially leading to the development of disorders such as anxiety or depression. Likewise, shame too can indirectly impact one's well-being, by devaluing one's sense of self-worth (Grasmick & Bursik, 1990). For embarrassment to effectively influence individual decision-making, however, it is imperative for potential offenders to believe that the crime they are contemplating is stigmatised by their community. In fact, a study revealed that embarrassment did not significantly decrease 'behavioural intention' to commit the following crimes: tax cheating, petty theft, drunk driving (Grasmick & Bursik, 1990). However, when we consider how certain deviant conducts are not only validated, but also encouraged in certain subcultures and age groups, it raises doubts about the generalisability of these null findings to the broader population. Nagin (1998) indeed argues that for a sanction to exercise any deterrent power, it must be stigmatised by the community. This perspective is echoed by Zimring and Hawkins (1971), who contend that 'if more of his peers share his moral views about a particular type of law violation, their perception of the negative value of punishment may also be inverted and the effects of severe punishment may include positive status for the person subjected to that punishment' (p. 40). A study on marijuana-using youth, in fact, found that this offence was predominantly committed by a segment of the youth population disengaged from what were considered 'conventional' activities, supported by the adults in the community. Moreover, it showed that these offending youths received at least some support from peers and adults alike in their drug use (Burkett & Jensen, 1975).

We observed a similar distribution when we asked our interviewees to rate their prior consideration of the importance of the loss of respect of their close friends, with 17 people claiming it had not been important at all (plus an additional five saying it had been

somewhat unimportant, and three responding simply 'no'). Fourteen of our respondents said it had been a very important consideration (with a further seven people saying it had been somewhat important). Since several people reported using drugs with friends, it is understandable that they would not have worried about the criminal activity driving a wedge between them. If anything, the interruption of the drug use could have possibly constituted a bigger rift in the relationship. Notably, the vast majority of those who had been recruited had entered the drug trade through a friend (32 out of 50, 64%). These findings are supported by previous scholarship that underscores the importance of peer association in the creation of neutralisation techniques (Becker, 1963). Consequently, as Geerken and Gove (1975) report, 'when an individual is immersed in a deviant subculture, where the formal and informal systems may work against each other, they tend to balance each other out' (p. 499-500). The following quotations highlight some of these concepts.

> [Q]: So when you used [drugs], you took into consideration the fact that you would lose respect from your friends?
> [A]: Well on average, my friends also used [drugs] actually.
> [Q]: Used.
> [A]: Even though they work in a legal job, they also use [drugs].
>
> ***
>
> [A]: Nope. [...] They only see materialistic values.
>
> ***
>
> [A]: My close friends are also users.
>
> ***
>
> [A]: But in my circle, most of them were dealers. [...] Only 30% of them were working legally, the 70% were dealers.

Other Negative Outcomes

The final inquiry concerning potential apprehensions about informal sanctions was meant to address the participants' understanding and concerns about how impactful a criminal conviction might have been on their geographical mobility, with the potential for it to restrict their ability to reside in desired places and neighbourhoods. However, the question was misinterpreted in the translation process and the interviewers asked instead how much importance the respondents had afforded to the fact that committing drug offences would make it harder for them to live the life they wanted.

The majority of interviewees (24 out of 43) claimed that this aspect had been a very important consideration when making the decision about whether or not to commit the offence, with a further three deeming it to have been important and four more categorising it as having been 'somewhat important'. By comparison, only seven people said that it had not been important at all, had been unimportant or somewhat unimportant. These results show that at the time our interviewees were considering committing their offence, they had a generalised understanding and concern, or at least an awareness of the future damaging effects of engagement in the drug trade.

The image which results from these responses is one of individuals with an acute awareness of the costs associated with the criminal activity. Not only had they been knowledgeable about the drug laws and had estimated a high likelihood of arrest, conviction, and imprisonment, but they had also recognised that many aspects of their social lives would be negatively impacted by their actions. Yet, contrary to the assumptions underpinning classical RCT, they did not let these weighty factors sway their swift decision about engaging in the criminal endeavour.

At this point, two possible explanations emerge. The first posits that the formal and informal benefits of participating in the drug trade wield such influence that they overshadow all perceived costs to the point of complete neutralization. Instead, the second proposition is that classical RCT is a reductionist model, which is unfit to account for the complexities of human decision-making, which, as I have highlighted on numerous occasions throughout the previous chapter, is often constrained by time limitations, cognitive biases, and a fallacious resolution of cognitive dissonance. While the direction of this chapter is becoming apparent in its critique of classical RCT, I would be remiss if I did not explore the first possible explanation outlined above. For this reason, the next section of the chapter will be focused on what I hereafter refer to as 'informal benefits.'

Informal Benefits

The most known benefits of drug offending are the financial profits derived from the sale of the substances, or the euphoric sensations induced by drug consumption. These are, in a way, the 'formal' benefits that are immediately associated with drug crimes and often analysed in the literature. However, in line with our exploration of the possible impact of informal sanctions, we also wanted to investigate whether the prisoners in our sample had expected any informal benefits in deciding whether or not to commit their offence. Research has indicated that certain individuals are motivated by social and personal incentives when committing criminal acts, such as a desire to elevate their social standing, or to satisfy emotional needs (Katz, 1988; Nagin & Paternoster, 1993). For instance, as also argued by edgework scholars, some individuals may enjoy the thrill elicited by criminal activities or the defiance of social or legal norms, while taking pleasure in the social status, recognition, and admiration that criminal involvement can generate among their peers

(Lyng, 1990, 2004; Reith, 2004). As one of the interviewees explained, 'I wanted people to look for me. I wanted to be famous at the time.'

Within the specific context of this study, we equated these benefits to a potential increased social desirability due to the higher social status which can be achieved through the acquisition of symbolically wealthy items, or an increased sense of being respected in the community and by loved ones in virtue of one's successful criminal activities. To explore these informal benefits, we adapted a social rewards scale of offending provided by Jeffrey Fagan, contextualising it for drug crimes; the scale had been previously adapted from a scale of social rewards used by Fagan and Piquero (2007), consisting of five statements to which interviewees were asked to respond according to a five-point Likert scale from 'strongly disagree' to 'strongly agree'. The questions aimed to elicit the extent to which respondents had considered the potential benefits to their social standing while they had been deciding whether or not to commit the drug offences they are currently incarcerated for. The items delineate potential positive outcomes of selling drugs, from being more respected by one's friends, families, neighbours, and other drug sellers, to being liked more for the clothes, music or objects they may be able to buy with the drug profits, and to impressing one's partner. The social rewards scale, which originally was used for the crimes of fighting, stealing, and robbery is reported by Fagan and Piquero (2007) as having a Cronbach's α = 0.75-0.82.

I had expected most interviewees to agree with the statement 'if I sell drugs, people will like me more for my clothes, music, or other things that I can get'. In fact, several of them had previously expressed that, when they had been deliberating whether to commit the crime, they had felt a desire for an increased quality of life and financial gain beyond

the strictly necessary ('[…] I wanted to become a mafia, a cartel'; 'My oldest son had to enrol in private school.').

The results show an almost equal division between those in agreement with the statement that, at the time when they had been deciding to commit the offence, they had believed that engaging in drug offences would increase their social desirability (13 strongly agreed, three agreed, and six somewhat agreed) and those in disagreement with it (12 strongly disagreed, three disagreed, and four somewhat disagreed). The following excerpt describes the view of one participant who considered it an important benefit.

> [A]: Many people were like that. If we had [drugs], people would come to us because they could use [drugs] for free, or friends would come by and try to get me to share my [drugs] for free.
> [Q]: So, did you help them because you had more money?
> [A]: I picked my friends. If they were nice to me, then I would give them. If I was not close with them, then I would not give them.
> [Q]: So many people liked you because of it. Agree or strongly disagree?
> [A]: Somewhat agree.

A possible explanation for the divergent attitudes toward this informal benefit can be attributed to the heterogenous nature of the drug crimes committed, with some being convicted for offences associated with using drugs, rather than selling. It stands to reason that only those who were considering engaging in dealing or delivering drugs would have anticipated extra profits and that instead drug users would not have expected any financial benefits. While the vast majority of our respondents had been charged with both Art. 112 (possession) and 114 (selling), some stated they were solely users but that, due to the quantities in their possession, they were also charged with selling.

In the same line of questioning pertaining to the anticipated higher desirability due to the prospect of criminal activity, we also asked whether during the decision-making process they had believed that committing drug offences would impress their partner. A notable 28 interviewees strongly disagreed with this notion, and a further 14 either

disagreed or somewhat disagreed. Among the minority in concurrence with the claim (6), one person stated that they had not worried about that prospect 'because what we wanted can be fulfilled, so my partner was happy, thinking that her partner can make money quickly and buy things for her'. This quote ties in with the previous point on the materialistic drive behind the commission of certain drug offences. Overall, the results indicate most interviewees had not expected their romantic partner to be impressed by their drug use and drug dealing, probably in light of all formal and informal sanctions connected to the criminal behaviour. These excerpts highlight the views of individuals who disagreed with the statement that engaging in the drug trade would impress their romantic partner.

[A]: Makes her proud? No, she wasn't proud.

***

[Q]: No, I mean, if you sell drugs, will it impress or make your partner amazed?
[A]: Yes, wrecked.
[Q]: Wow. So, do you strongly disagree, somewhat disagree?
[A]: Disagree.

***

[A]: My wife was actually against it. So, disagree.

***

[A]: Impressed? No. [...] Only foolish people do that.

***

[A]: Somewhat disagree. She would be ashamed.
[Q]: But your ex did it too.
[A]: She was different. She also liked it. *laughs*

To analyse whether they had anticipated an increase in respect from significant relations as a potential informal benefit during the decision-making process, we asked

about different relationships: friends and family, neighbours, and other drug dealers in the same area.

Beginning with the closest relationships, the responses to the question 'If I sell drugs, my friends and family will respect me more' closely mirrored responses on impressing one's partner. Almost every person in the sample strongly disagreed (32), disagreed or somewhat disagreed (16), while one person remained neutral, and only three strongly agreed that they had expected more respect from friends and family. However, the latter expressed that they had expected the increased respect to be contingent on their future ability to provide financial help through the profits of the drug trade or rewards in the form of drugs, as highlighted by the following quotations.

> [A]: They agree. After knowing that I sell drugs, they hoped that I would return to the right path. So, I was more respected than when I was still illegal. I've actually never thought whether I was respected or not. But as far as I know, they respected me because of the money.
>
> ***
>
> [A]: Yes, they knew, and they would undoubtedly help me. If I needed something, such as a car, they would immediately help me, because they knew that there was a reward: meth.
>
> ***
>
> [A]: Some of them, because some of my friends were [drug] users. They would respect me more if I sold [drugs], but the other half, like my family, of course would not respect me being a [drug] dealer.

Regarding the rest of the sample, who disagreed with the idea that during the decisional process they had anticipated increased respect by family members and friends, it is likely that their response was due to their low-level status within the drug trade, or their offence only being using drugs. Therefore, while they had been making the decision of whether to offend, they had already taken into consideration that the offence would be

neither glamourous nor profitable enough for their families to discount the risks associated with the criminal endeavour.

Similar outcomes emerged when we inquired about the respect they had anticipated receiving from their neighbours and other individuals within their community during the decision-making process. The majority expressed disagreement to some degree (36), and only a minority agreed with the statement (14). In fact, while one person claimed they had believed that being a drug dealer in a neighbourhood would give them the same status as a king among drug users ('That's how it goes if we are in the drug business. We become sort of a king and we become the most respected, differentiated from drug users. At least that was what I experienced. We would be treated like kings if we had the goods'), most drug offenders stated that they had not expected to experience the same status enhancement. While most respondents did not provide further explanations for their answers, two people introduced the 'neighbourhood' factor as a key aspect. One stated that they had not anticipated garnering more respect from individuals in their neighbourhood because they had been living in a 'clean' neighbourhood, while another's response differentiated between the geographical space he inhabited and that he traded within, stating 'that depends on the neighbourhood, whether it's my drug community or my usual community'. While this question was meant to assess the extent to which they had expected to be more respected by members of the community they inhabited, the existence of separate neighbourhoods with different subcultural values, where drug offenders are respected rather than stigmatised, may undermine the power of this informal sanction. These findings lend support to approaches steeped in cultural deviance theory, which illuminate the dynamic nature of beliefs and attitudes depending on group

affiliation and challenge the static views of classical RCT which does not include such distinctions.

The question of whether the interviewees had thought during the decisional process that committing the offence would make other drug sellers in the neighbourhood respect them more brought up the theme of competition and 'turf'. Out of the 52 respondents, 31 said that at the time they had not believed that engaging in the drug offence would garner them the respect of dealers in their neighbourhood.

> [A]: If anything, some of them dislike me. We were selling in the same area. We were competitors.
>
> ***
>
> [A]: Instead of being respected, we would clash because we were after the same customers.

Additionally, several respondents disclosed that they had planned to adopt a low profile while conducting the drug business in order not to alert the people within their neighbourhood to their dealings, as they had not expected any potential benefit from spreading the knowledge of their illegal activities. Therefore, garnering respect from other sellers in the area had not been a priority for them and had not been factored in during the decision-making process, as visible through the following quotations.

> [A]: With other couriers, I think it was ordinary. Somewhat
> [Q]: Somewhat? Somewhat agree?
> [A]: Somewhat disagree.
>
> ***
>
> [A]: We wouldn't want to show that we are [drug] dealers. Just lay low.
>
> ***
>
> [A]: Disagree, I don't want anyone to find out… If I sell drugs, I will be respected more by other drug sellers? Disagree.

In summary, the respondents in our sample had expected to perceive some informal benefits but prioritised during the decision-making process the anticipation of financial rewards of drug selling, or the 'high' of the drugs they were consuming. Only half agreed that they had believed the criminal activity would increase their social desirability, but the vast majority stated they had not thought it would impress their partner (42 out of 51) or make friends and family (48 out of 53) or people in their neighbourhood (36 out 52) respect them more. Lastly, most individuals disagreed with the idea that while they were deciding whether to commit the offence, they had believed that selling drugs would make them popular amongst other sellers, due to competition and the need to not publicise their activities within the community.

Discussion

The current chapter, along with the previous one, explicated the repercussions associated with drug offending, delineating both those sanctioned by law, if the offender is apprehended, and those informally caused by the societal reaction to the criminal enterprise, if discovered by members of the offender's family or broader community.

In contrast to classical conceptualisations of RCT, which historically focused on scrutinising the influence of formal sanctions on decision-making, the more intricate and multifaceted informal dimension has remained relatively unexplored. Amongst the critics of this restrictive conceptualisation of decision-making, Maroney (2006) argues that 'courts, examiners and legal theorists must join the contemporary mind sciences in recognising that emotion is both deeply intertwined with the mechanisms of cognition and of independent significance within rational human decision making' (p. 1434). Departing from the rigid operationalisation of rationality, characterised by a binary classification of

rational/irrational, opens the door to a more realistic and pragmatic comprehension of criminal decision-making, able to achieve higher degrees of external validity. This shift facilitates the incorporation of emotional states, biases, and realistic cognitive processing underlying decision-making as opposed to a merely utilitarian costs-rewards calculus.

Understanding the actual determinants playing a role in criminal decision-making is crucial not only to decrease offending, but also to be able to direct resources to those sections of the population most vulnerable to involvement in crime. For this reason, it becomes paramount to understand when a sanction is not causing the desired effect of dissuading a potential offender from pursuing criminal actions.

The results from the previous chapter point towards a very high level of awareness among our interviewees regarding the potential formal punishments, encompassing both the likelihood of arrest and subsequent conviction, during the decision-making process. Notwithstanding this acute cognizance of potential future formal sanctions and an high perceived risk of arrest, these considerations did not exert sufficient influence to sway the decision-making towards non-offending. Likewise, this chapter underscores how despite the profound *(dis)utility* of informal sanctions among drug offenders, the individuals in our sample had not perceived the anticipated loss of respect of their loved ones, the expectation of being precluded important job opportunities, as well as the lack of prospective informal benefits (e.g. higher social desirability, being able to impress a romantic partner, or being more respected in the household) as sufficiently strong to stop them from engaging in the criminal activity. Even when the interviewees had believed these potential informal sanctions to be very important, they had still discounted them, or had ignored the risks altogether, acting on impulse during the decision-making process and therefore neutralising any potential deterrent effect they might had generated in the

rational choice calculus. Past literature has shown that even taking into consideration multiple factors (moral commitment, perceived threat of formal punishment and perceived threat of informal punishment), only 40% of the variance is explained (Grasmick & Green, 1980). This highlights how other decisional elements might supersede formal sanction threats or moral commitments, such as for instance a high *individual discount rate*, hence explaining why despite high perceptions of informal risks, our interviewees had still decided to commit the offence.

Before continuing, therefore, it is necessary to delve deeper into the distinction between risk-discounting and poor impulse control. Throughout this thesis, the emphasis has been on risk-discounting, rooted in the rational choice framework, which presupposes at least a minimal degree of calculative deliberation. However, if we view risk-discounting as a conscious choice to prioritise one's present gains over future negative consequences, and we consider low impulse control as poor executive functioning, we can further illuminate the role of personality and individual-level characteristics in shaping decision-making (Nagin & Pogarsky, 2004). Risk discounting and poor impulse control do correlate with one another, with the literature finding that the propensity for devaluing one's future is linked to deficits in executive cognitive functioning (Seguin et al., 1999; Wallace & Neuman, 1997). In fact, an experiment aimed to test both found that individuals who were unable to complete problem solving activities correctly (signalling poor cognitive functioning) were both more likely to cheat and to want to delay punishment (Nagin & Pogarsky, 2003). Given that a recurrent theme throughout the interview process was the interviewees' frequent challenges in responding to questions about their decision-making processes, it is plausible that, rather than engaging in risk-discounting calculations, they had simply acted out of poor impulse control.

In summary, the findings go against the initial expectations regarding the significance of informal sanctions in the decision-making equation, as well as previous research suggesting that informal sanctions negatively impact engagement in future criminal endeavours (Williams & Hawkins, 1986). However, in order for informal sanctions to be effective in swaying one's judgement away from offending, socialisation emerges as a pivotal factor, with Zimring and Hawkins (1973) reporting that 'a strongly socialised individual is more likely to comply with threats because he is more sensitive to the negative consequences than his less socialised neighbour' (p. 120). These concepts of attachments and commitments, commonly shared among social control theories, prompt consideration of the level of socialisation of drug offenders within their communities. Drug offences are currently among the most stigmatised, especially in Southeast Asia, and while individuals might find solace in closed communities of users and dealers, this often involves at least partial withdrawal from the rest of the 'socialised' community, resulting in lower *personal capital.*[57] This retreatism could provide an explanation for why informal sanctions were not an effective deterrent among our interviewees. Furthermore, there is an attitudinal aspect that holds significant weight in offending: self-centredness. Along with present orientation, which implies a high individual discount rate, self-centredness has been found to indirectly influence offending by impacting how much individuals invest in their *personal capital*, especially in regard to their social attachments. Consequently, high levels of self-centredness make for individuals who are less sensitive to informal social controls (Nagin & Paternoster, 1994).

It is essential to note that, due to our sample comprising only of unsuccessful and incarcerated offenders, it is possible that a comparison with non-incarcerated or non-

[57] For *personal capital*, see Nagin and Paternoster (1994).

offending individuals would reveal different degrees of concern towards informal sanctions. Further research involving non-offending community participants is therefore necessary. The results do, nonetheless, align with those of Grasmick and Bursik (1990) and Cochran and colleagues (1999). The latter, studying the role of significant others as a form of external conscience and social control in a sample of university students, concluded that the 'data indicate that these informal systems either are not invoked or, if invoked, have no significant impact upon prospective offenders' rational decision making' (p. 101). The authors present cultural deviance theory as one of the possible explanations for why informal sanctions (especially the threat of embarrassment) did not prevent academic dishonesty within their sample, citing the increased normativity of the behaviour in educational settings. This sentiment is echoed by Nagin (1998) who highlights the phenomenon of 'stigma erosion' which signifies the ineffectiveness of utilizing stigma as an informal sanction if the stigmatising event is common and widespread.

This prompts an examination of the applicability of a cultural deviance theory approach to drug offending in Indonesia, in opposition to the classical rational choice model which struggles to adequately explain actual criminal behaviour within its context. While societal condemnation of drug offending is evident, a considerable number of respondents in our sample reported being recruited by friends (and a couple even by family members) or engaging in drug use within a trusted group of friends. Their association with offending peers, as well as their embeddedness in groups holding a different belief system than the rest of society would entail a lowering of the *(dis)utility* of informal controls, potentially accounting for the unexpected findings in terms of the explanatory efficacy of informal sanctions. These alternative beliefs might also facilitate the

risk-discounting process and enable other 'techniques of neutralisation' (Sykes & Matza, 2017).

Due to the nature of the questions, it is not possible to delineate whether our interviewees perceived formal or informal punishments as more pressing. Nonetheless, it is evident that neither of these factors served as sufficiently compelling reasons to dissuade them from offending.

One dimension which we did not investigate, but which warrants further research, is the perception of morality held by drug offenders, and what effects 'conscience appeals' might have on this population. One study found that appealing to one's conscience had a greater inhibitory effect on crime than sanction threats, albeit with effectiveness contingent on individual characteristics such as socio-economic status (Tittle & Logan, 1973). Similarly, structural-functional theory posits that the more an individual internalises moral norms, the less likely they are to deviate; indeed, a research study discovered that the fear of punishment is only moderately correlated to deviance, while other factors such as moral commitment, norm legitimacy, and differential association were more highly correlated (Tittle, 1977). Additionally, a study investigating corporate crime also found that 'when moral inhibitions were weak, persons were deterred by threats of formal and informal sanctions and by organisational context' (Paternoster & Simpson, 1996, p. 579). The authors argue that their results lend support for Etzioni's (1988) hypothesis regarding how moral norms restrict the number of behavioural preferences, as certain actions are labelled as sacred. The moral sphere therefore could become a prime instrument of conformity, albeit its significance has diminished as society increasingly embraces neoliberalist ideals.

As previously detailed, numerous concomitant situational, psychological, and sociological elements shape individual decision-making. The preceding chapter highlighted several factors, such as cognitive fallacies, the high levels of trust the interviewees had held for their recruiters and 'bosses', the short timeframes used to decide, and the uncertainty of punishment caused by corruption. These factors collectively contribute to a decision-making process characterised by bounded rationality. While the literature has posited an additive hypothesis in regard to formal and informal sanctions cooperating towards deterrence, this study illuminates the additive nature of characteristics of both formal and informal sanctions which concur to the discounting of – or ignorance about – the risks associated with potential criminal activities.

Conclusion

The results of the current chapter on the role played by informal sanctions in criminal decision-making do not support the classical approach to RCT. The individuals in our sample had anticipated significant concerns in regard to future informal sanctions connected to potential offending, and yet they were not dissuaded by them.

These findings reveal that informal sanctions, albeit perceived as salient during the decision-making process, particularly when involving the anticipated loss of employment and loss of respect by family members, had not been enough to dissuade potential criminal behaviour. These results, paired with the recurring theme of lack of insight in decisional landscapes, evidence high levels of risk-discounting or a lack of impulse control.

Lastly, these results contradict the universality assumption that most Northern criminological theories are based on. In fact, this research looked at the contextual realities of the participants and found several cultural aspects that played a role in the criminal

decision-making, including the high levels of trust, the ambiguity caused by a corrupt criminal system, the high frequency of informal employment, to the differences between neighbourhoods in terms of tolerance to crime, further blurring the lines between legality and illegality.

7. Profiles: Looking for Nuance.

Introduction

The current chapter will present a comprehensive portrayal of various participant profiles. It is motivated by the objective of discerning whether distinct subgroups within our sample of 57 interviewees exhibited different trajectories in their criminal endeavours or expressed different levels of knowledge of the law or perception of the risks associated with drug offending. To analyse the different profiles, I divided the sample into separate subgroups based on demographic, socioeconomic, and background characteristics. Subsequently, I investigated these subgroups' specific responses with respect to background, risk perception, knowledge of drug legislation and potential punishments, and the evolution of their criminal trajectories. This multifaceted analysis seeks to illuminate the intricate interplay between individuals' background characteristics and their decision-making within the broader regional context of the Indonesian criminal justice system.

I first divided the interviewees into two groups based on highest level of education achieved: individuals whose highest degree of education had been elementary school, and those who had received additional schooling, in the form of vocational training, high school, and university. I split the second set of subgroups along employment lines, between those who, at the time of the decision regarding whether to commit the crime, had been employed, and those who had not. The subsamples in the third group comprise those participants who had committed the crime of 'possession', and those instead who had committed all the other – more severe – drug crimes, spanning from producing to

dealing. Then, I divided the fourth set of subgroups along the knowledge axis, between those who, at the time of making the decision about whether to engage in drug offending, had been knowledgeable of the relevant crime legislation, and those who had not. The latter distinction is meant to test whether knowledge of the law changes risk perception, and what role, if any, past offending experiences and contact with law enforcement play in knowledge formation. The last two subgroups were split based on risk perception, between individuals who had deemed the risks likely and unlikely.

The following paragraphs report the results of the comparisons of each set of subsamples, delineating the profiles of the individuals that populate it, and highlighting points of distinction whenever present. Before reporting the results, I deem it necessary to highlight a significant shortcoming present throughout this chapter: small sample sizes. Despite an overall sample size of 57, many of the subsamples were imbalanced, with one subsample being significantly smaller than the other. In turn, this is likely to have underpowered tests, decreasing the possibility of discerning significant differences. I still chose to run these tests, despite the small sample sizes, to outline potential differences and to discuss possible participant profiles. However, it will be crucial for future research to analyse a larger number of participants within this population to reach more robust results.

Group One: Educational Level

The rationale behind the choice to divide the sample along an educational attainment line lies in the close ties between low level of schooling and poor quality of life, low socio-economic status, and overall financial precarity, which has been consistently found in the literature (Becker & Chiswick, 1966; Broer et al., 2019; Edgerton, Roberts, & von Below,

2011; Lanjouw et al., 2002). Therefore, the expectations are that the subsample of participants who had only completely elementary school would experience a higher degree of unemployment as well as a marked financial motivation behind their criminal endeavour. I also anticipate this subgroup of participants to have engaged in faster decision-making due to a potentially more precarious financial situation, and to have lower levels of understanding of the legislation on narcotics as well as a lower risk perception.

The subsample of people whose highest educational level had been elementary school is comprised of eight individuals, while 48 were in the group for higher educational attainment. Considering the disparity in sample size, it is necessary to highlight the limitations to generalisability. Nevertheless, I will still be able to conduct statistical analyses on these samples by using tests which are suitable for small-sample sizes. In light of the different types of responses gathered through the close-ended questions during the interview process, I will use Fisher's Exact Test for binary responses, Mann-Whitney U Test to compare distributions given by three- and five-point Likert scales (and to compare not normally distributed scale variables), and *t*-test, whenever its assumptions are met. Starting with the age at the time of the interview, considering the small number of individuals who had only completed elementary school, I performed a Shapiro-Wilk test, to assess normality and determine whether a *t*-test or Mann-Whitney U Test would be the more appropriate course of action.[58] The Shapiro-Wilk test showed that the distribution of age significantly departed from normality ($W = .95$, $p = .040$) amongst individuals who had completed schooling beyond the elementary level. For this reason, I opted to utilise Mann-Whitney U Test to assess whether the two samples differed in terms of age at the time of

[58] To assess normality throughout, I excluded one outlier (an individual aged 69).

the interview, which was not the case among the individuals in our subsamples (U = 157, z = -0.11, p = .928).

Still, the age at the time of the interview is not the most indicative of variables for the delineation of their criminal trajectory and overall profile. For this reason, I expanded the analysis to test whether the two groups differed in terms of age at the time of the first crime, and length of criminal activity. Since some interviewees specified a single age of first crime while others differentiated between their age at the time when they had used drugs for the first time, and their age when they had started committing more serious crimes, I created two variables. It is to be noted, however, that in cases in which an individual did not specify a difference between using drugs or more severe crimes, I included the only age they provided in both variables.

Regarding their age at the time of their earlier contact with the drug trade, mostly as users, I found no difference between individuals who had only completed elementary-level schooling and individuals with higher education (U = 226.5, z = -0.80, p = .424).[59] Likewise, they did not differ in terms of the age at which they had first committed a more severe crime (U = 263, z = -0.01, p = .991).[60] Likewise, I found no differences in terms of criminal career length between people who had only completed elementary school and people who had received higher levels of schooling (U = 172, z = -0.29, p = .784).[61]

[59] I ran Shapiro-Wilk normality test, and since the distribution of the age when people engaged in the criminal activity (including the more severe types of crime) amongst people with lower levels of schooling (W = .91, p = .010) and people with higher levels of schooling (W = .88, p = .020) departed from normality, I performed Mann-Whitney U Test rather than a *t*-test.

[60] I ran Shapiro-Wilk normality test, and since the distribution of the age when people engaged in the criminal activity (including the more severe types of crime) amongst people who had completed higher levels of schooling departed from normality (W = .92, p = .017), I performed Mann-Whitney U Test rather than a *t*-test.

[61] I ran Shapiro-Wilk normality test, and since the distribution of the length of the criminal career amongst people who had only completed elementary school (W = .79, p < .001) and people who had completed

These findings are interesting, as a previous study found that early exposure to drugs can negatively impact schooling (Chatterji, 2016). It follows that such a detrimental effect would lead to restricted access to further educational opportunities. Yet, the individuals within our sample, independently from the highest level of schooling achieved, had started engaging in the drug trade at similar ages. One possible explanation is that the higher levels of schooling might not have acted as a protective factor, but rather put our interviewees in contact with peers in the drug trade during the time they had attended upper primary education or above. This would be in line with the following conclusion by Fletcher and colleagues (2009): 'In some school environments, young people may initiate and/or increase their drug use: as an alternative source of bonding and identity once they are marginalized from mainstream markers of achievement, to ensure acceptance and safety, and/or, as a form of stress relief and "escape"' (p. 131). Considering the overall low socio-economic status of the individuals within our sample, participation in the drug trade during their school years might have provided them with an alternative status enhancer.

In terms of drug crimes committed, it is interesting to note that no one in the 'elementary school only' subsample reported 'possession' as their crime (see Fig. 8), while all eight people having been charged with possession had belonged to the second group, with higher levels of schooling. This might suggest that the individuals whose highest educational attainment had been elementary school were driven by profit rather than simple necessity to consume drugs in the commission of the crime. This might be due to the posited higher levels of financial precarity, often associated in the literature with lower

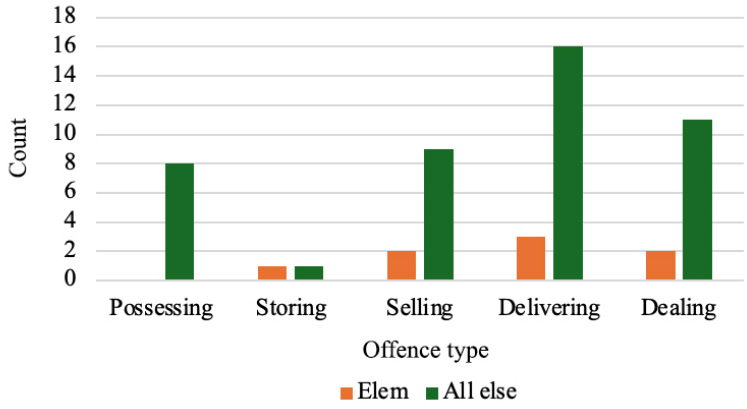
higher levels of schooling ($W = .62$, $p < .001$) departed from normality, I performed Mann-Whitney U Test rather than a *t*-test.

educational attainment (Becker & Chiswick, 1966; Broer et al., 2019; Lanjouw et al., 2002). In summary, the hypothesis is that the individuals in the 'completely elementary only' sample might have seen drugs primarily as a way to improve their finances rather than to partake in drug usage. Yet, I could not reject the null hypothesis of no-difference between the two subsamples (U = 174, z = -0.44, p = .688).

Furthermore, the hypothesis is dispelled by the results of our inquiry regarding their drug use at the time of arrest, as every person in the subsample whose highest educational achievement had been elementary school reported drug use, as opposed to 81.81% (36 out of 44) in the second subgroup. Fisher's Exact Test (p = 0.33) does not indicate a significant difference in terms of drug use between the two subsamples.

Figure 7

Type of offence by schooling level



Note. 'Elem' stands for 'elementary school only' while 'All else' for all other levels of education.

When it comes to length of imprisonment (in years), the difference is not significant, however it is leaning towards significance (U = 107, z = -1.90, p = .063).[62] This might be due to the fact that all the individuals who had only completed elementary school had committed crimes more severe than simple possession for personal use, as demonstrated by Figure 7. Still, with the results not being significant, we cannot draw any inferences on the matter.

Contrary to the initial expectations about the first subgroup ('elementary school only') being more likely to be comprised of unemployed individuals due to the lower level of education achieved, there were no significant differences in their level of employment at the time when they had made the decision to commit the crime, according to Fisher's Exact Test (p = .715). Likewise, the two subgroups reported similar levels of ability to fulfil their basic needs (U = 162, z = -0.53, p = .670). These results raise important questions regarding the universality of the relationship between educational and financial precarity, especially in countries with rich informal economies, such as Indonesia. In fact, as high school or university degrees are not required to work in most of the trades or types of employment our participants reported working in,[63] this variable might not be as clear a proxy for financial precarity as it would be in other countries, in which a high level of schooling is a requirement for many – even entry-level – jobs.

One interesting finding however is that the hypothesis that people with lower educational attainment would also be more prone to engage in fast decision making is reversed by the results, as can be seen in Tables 1 and 2 (U = 55.5, z = -2.04, p < .05)

[62] Despite 'sentence length' being a scale variable, I had to use Mann-Whitney U Test because the assumption of normality for a *t*-test was not met in the subsample comprised of people who had received higher education, according to the Shapiro-Wilk test (W = .93, p = .006).
[63] See Chapter Four on personal circumstances for more information on the types of employment.

Table 1

Ranks of time spent making the decision to offend, based on highest level of education achieved.

Ranks

	Education_2	N	Mean Rank	Sum of Ranks
Timing	Completed elementary	6	31.25	187.50
	Everything else	37	20.50	758.50
	Total	43		

Table 2

Test results for differences in decisional timeframes based on highest level of education achieved.

Test Statistics[a]

	Timing
Mann-Whitney U	55.500
Wilcoxon W	758.500
Z	-2.035
Asymp. Sig. (2-tailed)	.042
Exact Sig. [2*(1-tailed Sig.)]	.050[b]

a. Grouping Variable: Education_2

b. Not corrected for ties.

People with only an elementary school degree took longer on average to decide whether or not to commit the drug crime, compared to their more highly formally educated counterparts. While it is important to raise a word of caution in interpreting the results,

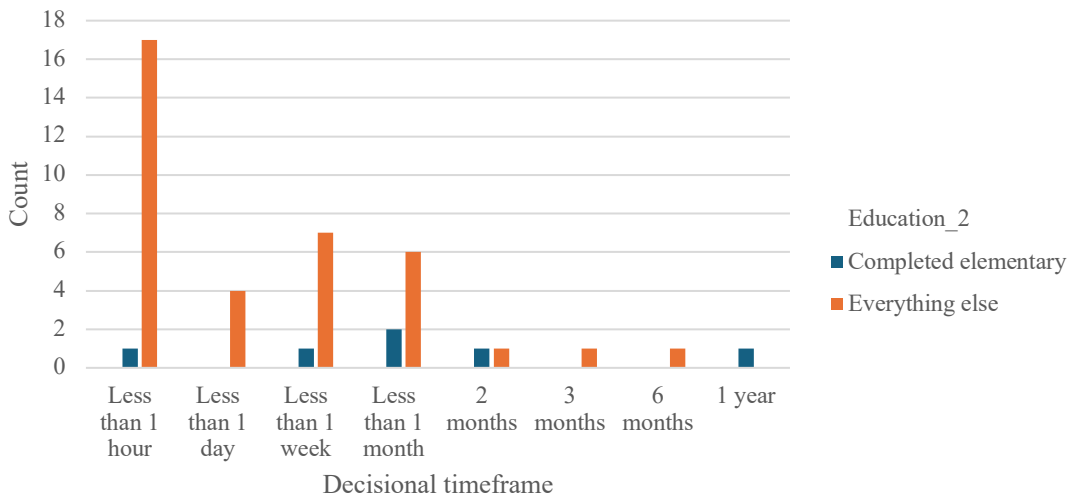
due to the small sample size of the 'completed elementary only' subgroup (as clearly visible in Figure 8), the effect size (η^2 = .088) is medium, suggesting that indeed individuals with lower educational attainment took longer in their criminal decisional process. I speculate that this difference might be mediated by the type of criminal activity.

As a section of the individuals with higher educational degrees had committed the crime of possession for personal use, their decision to commit the crime of partaking in drug consumption might have been quicker in light of the social – and less risky – nature of the offending activity. This hypothesis will be further investigated in the analysis of the third set of subgroups, divided according to the type of criminal offence, specifically separating people who had only 'possessed' drugs and everyone else.

The two samples also did not differ in terms of their knowledge of the law (U = 176, z = -0.22, p = .858), going contrary to the initial assumption that exiting education at

Figure 8

Distribution of decisional timeframe by highest level of education achieved.



a young age would lead to a lesser degree of awareness of the narcotic legislation. This might point towards word of mouth and participation in the drug trade as more significant players in knowledge-formation regarding legislation and potential negative consequences of offending, rather than formal schooling.

Further supporting this latter hypothesis, which argues that informal relations might be more important than schooling in the development of awareness of the law and risks connected to drug offending, there were no differences in risk perception of arrest between the group who had only completed elementary school and the group who had completed higher educational levels ($U = 177.5$, $z = -0.07$, $p = .951$). The two subsamples showed also similar perceived risk of conviction ($U = 152$, $z = -0.61$, $p = .620$), and perceived risk of imprisonment ($U = 161.5$, $z = -0.40$, $p = .718$). Paired with the results on the similarity between the two profiles in terms of knowledge of the law, it appears then that formal education does not have an impact on criminal decision making among drug offenders within the Indonesian context. This is an important finding as it can help shift the focus of programmes aimed at raising awareness on the risks associated with drug crimes from formal educational institutions to other sites of intervention, such as informal networks, neighbourhoods, and community-based institutions (Nurmala et al., 2021).

What we can conclude from this section is that there appear to be no differences in terms of background, sentencing length, and risk perception of formal sanctions between people with only an elementary school diploma as compared to individuals with higher educational degrees. However, there is a difference in the length of time taken to make the decision to commit the crime, potentially mediated by the type of crime, despite the absence of significant differences in type of offences or financial precarity as operationalised in this study. Before introducing the following section, it is necessary to

mention the complicated nature of addressing financial precarity within this specific context. Considering the informal nature of a significant portion of Indonesia's economy, and the high frequency with which our participants participated in it, our interviewees did not find it straightforward to state their salary or describe their past occupation in terms of how stable it had been. To gather more information on the matter, we also inquired about whether they had had dependents counting on them financially, how many, if any, and whether their employment had been long-term, temporary, self-employment etc. In conversations with local researchers, the theme of precarity proved to be a difficult one to address, as there seemed to be no one variable, or specific set of variables, able to capture it; moreover, our participants found it hard to categorise their job according to stability, and, being so embedded in the informal economy, struggled to assess their overall precarity and subsequent vulnerability to sudden unemployment, loss of finances, shelter etc. To conclude, however, I believe it important to highlight how engaging in the informal economy as a primary source of employment is by default a more precarious financial situation compared to having a long-term employment contract, enjoyed by only 13 of our interviewees.[64] Therefore, the great majority of the individuals who participated in the current research could be deemed to be at a higher level of financial vulnerability, considering the full portrayal of their work and financial background throughout the interview process.

Now, the following sections will delve into potential differences and similarities regarding the level of concern for informal sanctions, as well as desire for anticipated

[64] Out of these 13 people, one person was only on a yearly contract and another stated that their job had been 'motorcycle taxi driver', raising questions on the stability of such a contract, as most taxi drivers are employed by third-party companies such as Gojek and Grab, which, as mentioned in previous chapters, often exploit workers, and offer precarious employment.

informal benefits during the time of the decision-making process, based on level of schooling. Considering that, of the eight people in the 'elementary school only' subsample, five had been unemployed, two had been in unstable job positions, and only one person had had a permanent contract, I anticipate lower levels of concern for informal sanctions; in fact, the interviewees might have had fewer long-term commitments and involvement within society, as postulated by control theory, due to the high level of precarity (Hirschi, 1969). Contrary to these expectations, the two subsamples showed similar results, with no significant differences between them in terms of informal sanctions.[65]

Similarly, the two samples were no different in terms of anticipated informal benefits during the decision-making process, such as expecting to gain more respect from friends and family members ($U = 168$, $z = -0.38$, $p = .779$), as well as expectations of heightened respect from neighbours ($U = 148$, $z = -0.76$, $p = .493$), and other drug dealers ($U = 167.5$, $z = -0.23$, $p = .833$). They also did not differ in their expectations of increased social desirability due to their higher buying power from the drug profits ($U = 147.5$, $z = -0.56$, $p = .594$), or anticipation of impressing one's partner ($U = 171.5$, $z = -0.02$, $p = .990$).

In conclusion, these results do not support the hypothesis that people who completed only elementary school have a different profile or trajectory than those who instead completed vocational training, high school or university, the only point of

[65] The following are the results of the Mann-Whitney U statistics concerning how worried the individuals in our two subsamples based on education attainment had been at the time they had chosen to commit the crime, regarding several informal sanctions:
'I would be suspended from my job': $U = 149$, $z = -0.21$, $p = .857$.
'I would lose respect from my close friends': $U = 150.5$, $z = -0.68$, $p = .525$.
'I would lose respect from my family members': $U = 133.5$, $z = -1.40$, $p = .253$
'I would lose respect from important neighbours and other adults': $U = 166$, $z = -0.16$, $p = .889$.
'I would lose respect from my girlfriend/boyfriend/spouse/partner': $U = 119$, $z = 0.59$, $p = .611$
'It would make it harder to find a job in the future': $U = 117$, $z = -1.68$, $p = .161$
'It would make it harder for me to live in places where I want to live': $U = 118$, $z = -0.85$, $p = .474$

distinction being a longer decision-making time, potentially mediated by the absence of charges for simple possession for personal use.

Group Two: Employment Status

For this second set of analyses, concerning the different profiles of individuals in our sample depending on their employment status, I divided the participants into two groups: those who at the time of the decision to commit the drug crime had been unemployed (n = 25) and those who instead had been employed (n = 30).

In terms of background, the two groups did not show substantial differences. Indeed, they showed similar levels of educational achievement, as already surmised from the previous investigation (U = 307, z = -1.20, p = .231), similar criminal endeavours (U = 342.5, z = -0.57, p. = .569), age at the time of the interview (M_1 = 39.48, SD_1 = 6.75, M_2 = 38.37, SD_2 = 9.89, t (51) = .46, p = .646, d = .128, 95% CI [-0.42, 0.67]),[66] length of imprisonment to which they were sentenced (U = 352, z = -0.18, p = .861),[67] number of dependents (U = 249, z = -0.07, p = .945),[68] and whether they could afford basic necessities (U = 323.5, z = -0.52, p = .602).

The last finding is especially interesting, as one would expect that being unemployed would impact one's ability to provide for one's family's basic necessities. Moreover, the three response categories for the inquiry 'Were you able to fulfil your basic

[66] M_1 and SD_1 refer to the means and standard deviations of the unemployed subsample, while M_2 and SD_2 refer to the means and standard deviations of the employed subsample.

[67] Since the Shapiro-Wilk test of normality showed that the distribution of sentence length amongst employed people diverged from normality (W = .91, p = .018), I used a Mann-Whitney U Test instead of a *t*-test

[68] I ran Shapiro-Wilk normality test and found that the distribution of number of dependents for both unemployed (W = .90, p = .031) and employed (W = .81, p < .001) subsamples departed from normality, I used a Mann-Whitney U Test instead of a *t*-test.

needs?' included the options: yes, no, and yes (but including money from the drug trade), as some individuals specified it as a source of income, despite the fact that initially the question had been aimed at investigating their financial situation *prior* to their engagement in the drug trade. One possible reason for this unexpected finding is that some of the individuals who responded affirmatively without mentioning the source of their income included their earnings from the drug trade. This would explain why, despite being unemployed, they still reported being able to afford basic necessities. Moreover, throughout the interview, it became clear that some participants struggled to understand the difference between formal and informal employment, as well as between legal and illegal employment, further complicating the task of drawing stark lines between the different categories, or achieving an accurate understanding of their employment and financial status.

By using Fisher's Exact Test, I discovered that the two subgroups did not differ in regards to their criminal background either, with a similar number of people having engaged in drug use at the time they decided to commit the crime (p = .708), whether it had been their first drug crime (p = .271), whether they had had prior convictions (p = 1) and whether they had been previously convicted of the same crime (p = 1). However, it is important to point out how these results are likely to be due to the small subsample sizes, which underpower the test. The sampled did not differ in terms of age when they had first become involved in drug offending (including using drugs) (U = 341, z = -0.16, p = .872),[69] the age when they had started engaging in drug offences (including more serious ones like

[69] I ran Shapiro-Wilk normality test and since the distribution of the first age of involvement within the drug trade (including simple use) departed significantly from normality amongst both unemployed (W = .84, p = 001), and employed (W = .92, p = .031) individuals, I ran a Mann-Whitney U Test instead of a *t*-test.

dealing) (U = 305, z = -0.80, p = .422),[70] and the length of the criminal endeavour (U = 327, z = -0.62, p = .537).[71] In summary, the people who had been unemployed during the decision-making process regarding whether to commit the crime did not have significantly different criminal backgrounds compared to the individuals who had been employed.

Yet, I found that the two groups differed in terms of the time they devoted to the decision to commit the crime, with the unemployed individuals taking more time to deliberate (U = 152, z = -1.99, p = .047) (Tables 3 and 4). As for the previous finding that people with only an elementary school diploma had taken longer to decide to commit the drug offence, this could be due to a mediation of the severity of crime. Unemployed individuals, in fact, might have had a primarily financial motivation, and the chance to commit more severe crimes (dealing, selling), and less of a drive to consume drugs as a primary need. However, this goes counter to the previous findings of similar type of crime and drug consumption between the two samples. Therefore, further research is necessary to truly test whether severity of crime is in fact a mediator between unemployment and timing, perhaps operationalising severity of crime as the perceived level of risk associated with the specific crime committed rather than simply type of crime, as we inquired. Lastly, it is worth mentioning that the effect size for this difference in time spent choosing to commit the drug crime is large (η^2 = 0.258).

[70] I ran Shapiro-Wilk normality test and since the distribution of the first age of involvement within the drug trade (including more severe crimes like dealing) departed significantly from normality amongst employed individuals (W = .91, p = .029), I ran a Mann-Whitney U Test instead of a *t*-test.

[71] I ran Shapiro-Wilk normality test and since the distribution of the length of the criminal career departed significantly from normality amongst both unemployed (W = .89, p = .009), and employed (W = .77, p < .001) individuals, I ran a Mann-Whitney U Test instead of a *t*-test.

Table 3

Ranks of time spent making the decision to offend based on employment status

Ranks

	Work	N	Mean Rank	Sum of Ranks
Timing	No	20	25.90	518.00
	Yes	23	18.61	428.00
	Total	43		

Table 4

Test results for differences in decisional timeframes based on employment status

Test Statistics[a]

	Timing
Mann-Whitney U	152.000
Wilcoxon W	428.000
Z	-1.987
Asymp. Sig. (2-tailed)	.047

a. Grouping Variable: Work

Contrary to the expectation that unemployed individuals might worry less about being imprisoned, while considering the choice to offend, especially in light of the longer timing to make such a decision, the two groups did not differ in that regard (U = 298, z = -0.75, p = .456). Likewise, they showed similar profiles in knowledge of the law and risk

perception,[72] once again pointing towards social dynamics, informal networking, and word of mouth as a primary source of knowledge formation and risk assessment development, rather than formal schooling or association with formal institutions, with the connected anti-drug interventions or campaigns.

Lastly, there were no significant differences in how much the two subsamples (employed and unemployed at the time of the decision to commit the offence) had worried about informal sanctions or had anticipated potential informal benefits (Table 5). Likewise, both groups had been treated similarly by the police, both in terms of their rights and in terms of overall treatment while in police custody.[73] These findings go counter to my initial expectation that police might be more lenient toward employed individuals, who would have a higher possibility to bribe their way out of a more severe charge, or to be treated more humanely, compared to unemployed individuals who likely saw their illegal earnings (and only potential for bribery) seized upon arrest as evidence, as described by several interviewees.

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[72] The following are the results of the Mann-Whitney U test regarding the comparison of knowledge of the law and risk assessment between the unemployed and employed subsamples:
Knowledge of the law: U = 305.5, z = -1.13, p = .257
Risk perception of arrest: U = 305, z = -.82, p = .410
Risk perception of being convicted if arrested: U = 279.6, z = -1.01, p = .313
Risk perception of being imprisoned if convicted: U = 265, z = -1.41, p = .158

[73] The following are the Fisher's Exact Test results from the comparisons of the two subsamples (employed and unemployed) in regard to their rights while in police custody, and their overall treatment by the hands of the police. I am not including the test results for items which had insufficient sample sizes.
Right to contact family: p = .395
Right to contact a lawyer: p = .404
Right to access to health services: p = .564
Right to get methadone/suboxone if needed: p = .529
'I/My family was asked to pay a bribe to secure a reduced charge/sentence': p = .274
'I was denied water': p = .613
'I was denied medical attention': p = .271
'I was physically hurt by law enforcement officials (e.g. dragged, slapped, hit, electrocuted)': p = .503
'I was asked to participate in sexual acts by law enforcement officials': p = .48

Table 5

Levels of worry for informal sanctions, and expected informal benefits based on employment status.

Test Statistics[a]

	Job suspension	Respect friends	Respect family	Respect neighbours	Respect SO	Hard to find job	Live how you want	Friends & fam will respect more	Neighbours. will respect more	Dealers will respect more	People will like me more	SO will be impressed
Mann-Whitney U	270.000	297.500	318.500	269.000	238.000	306.000	236.000	316.000	325.000	335.500	279.000	298.500
Wilcoxon W	621.000	597.500	643.500	569.000	514.000	631.000	561.000	722.000	703.000	635.500	630.000	649.500
Z	-.068	-.737	-.680	-1.082	-.641	-.422	-1.209	-.767	-.250	-.010	-.664	-.597
Asymp. Sig. (2-tailed)	.946	.461	.497	.279	.521	.673	.227	.443	.802	.992	.507	.550

a. Grouping Variable: Work

Group Three: Type of Crime

Third, I divided the sample into two sections based on the offence type, to see if people who described their crime as possession had a different profile than the individuals who instead profited off the trade by dealing, selling, storing, or delivering the drugs. It is to be considered that there is an overall overlap between those who dealt drugs and those who used, with many dealers also using drugs amongst the people in the current sample. However, by creating a division based on 'severity' of the crime, we should be able to get a better understanding of whether the decision-making process changes depending on the type of crime. Also, whether this difference has any impact on their treatment at the hands of the police, and in the judicial system. As extensively discussed in Chapter One, the Indonesian criminal justice system offers a dual-track sentencing scheme, according to which people whose only crime is drug use should be granted the possibility to be diverted towards rehabilitation rather than incarceration. Within such a scheme, drug users are

seen as the victims of the drug trade. Therefore, I expect their experiences of police custody might differ from those of people who profited from the drug trade.

I singled out the subgroup of seven people whose crime had been simple possession. I included one person who was convicted for selling due to the high amounts of drugs in their possession, but whose motivation had been to secure continuous supply for self-consumption by acquiring a significant amount of drugs. I also included one person who claimed innocence but then stated that they had used drugs. The second subsample was instead composed of 48 people.

In terms of demographics, the two groups did not differ in regards to age at the time of the interview ($U = 101.5$, $z = -1.50$, $p = .136$),[74] the highest level of education achieved ($U = 147$, $z = -0.47$, $p = .668$), as well as whether or not they had had dependents counting on them financially (Fisher's Exact Test, $p = .586$), and the number of such dependents ($U = 124$, $z = -0.28$, $p = .795$).[75]

Unsurprisingly, the individuals whose only crime had been possession were sentenced to shorter imprisonment lengths ($U = 83$, $z = -2.17$, $p = .031$).[76] This difference has a medium effect size ($\eta^2 = .084$). Surprisingly, however, the nature of the crime did not imply differences in the individuals' ability to provide for their basic needs ($U = 129.5$, $z = -1.08$, $p = .375$), as I had expected that people who had committed monetarily motivated

[74] I ran Shapiro-Wilk normality test, and since the distribution of the variable age within the subsample of individuals who had committed crimes other than possession diverged from normality ($W = .93$, $p = .014$), I ran a Mann-Whitney U Test instead of a *t*-test.

[75] I ran Shapiro-Wilk normality test, and since the distribution of the number of dependents significantly departed from normality for the subgroup of people who had committed more severe crimes than possession ($W = .92$, $p = .008$), I performed a Mann-Whitney U Test instead of a *t*-test.

[76] I ran Shapiro-Wilk normality test, and since the distribution of the variable sentence length significantly departed from normality for both the subgroup of people who had only committed the crime of possession ($W = .76$, $p = .015$) and those who had committed more severe crimes ($W = .95$, $p = .05$), I performed a Mann-Whitney U Test instead of a *t*-test.

crimes might be in a more precarious financial situation; this might be due to the overlap between drug dealing and drug usage. Another surprising finding is that the two subgroups did not differ in terms of age of first crime (including using) (U = 121, z = -0.56, p = .593),[77] age of the first crime (including more severe criminal endeavours) (U = 123, z = -0.51, p = .632),[78] and overall length of criminal activity, expressed in months (U = 162.5, z = -0.05, p = .960).[79] This is utterly unexpected because it goes counter to the argument that the people who had simply engaged in possession for personal use might have been at an earlier stage of their criminal career.

The background of those who had committed simple possession was not different than the background of those who had engaged in more 'serious', and financially motivated, drug offences. Through using Fisher's Exact Test, I found similarities in whether the crime they were being imprisoned for at the time of the interview had been their first drug crime (p = .685), whether they had prior convictions (p = .431), and whether they had been convicted for the same crime in the past (p = .664). As for the previous two subsample comparisons, the two groups divided according to crime type appeared to be leaning towards a significant difference in the timing used to make the decision to commit the crime (U = 22.5, z = -1.87, p = .074). While not statistically

[77] I ran Shapiro-Wilk normality test, and since the distribution of the variable 'age of first crime, including drug use' significantly departed from normality for both the subgroup of people who had only committed the crime of possession (W = .75, p = .019) and those who had committed more severe crimes (W = .91, p = .002), I performed a Mann-Whitney U Test instead of a *t*-test.

[78] I ran Shapiro-Wilk normality test, and since the distribution of the variable 'age of first crime, including more severe crime' significantly departed from normality for both the subgroup of people who had only committed the crime of possession (W = .79, p = .043) and those who had committed more severe crimes (W = .93, p = .010), I performed a Mann-Whitney U Test instead of a *t*-test.

[79] I ran Shapiro-Wilk normality test, and since the distribution of the length of the criminal career significantly departed from normality for the subgroup of people who had committed more severe crimes (W = .76, p < .001), I performed a Mann-Whitney U Test instead of a *t*-test.

significant, it is important to note, that the 'possession' subsample for this analysis only comprised of three responses.

The two groups also showed similar levels of concern in regards to potential incarceration during the decision-making process (U = 115, z = -0.70, p = .529), risk perception of arrest (U = 99.5, z = -1.73, p = .107), conviction (U = 126, z = -0.31, p = .809) and imprisonment (U = 109.5, z = -0.88, p = .424). This last set of results adds weight to my previous arguments on the importance of informal social networks within the drug trade in developing an understanding of the formal risks connected to drug offending. Moreover, the lack of distinction between users and sellers suggests a flat communicative structure of such information, for both groups showed similar levels of perceived knowledge and risks. Another piece of evidence pointing towards a qualitative similarity between the two subgroups based on crime type is the lack of differences between perceived importance associated with informal sanctions (Table 6).

Table 6

Test results showing similarities in levels of worry for informal sanctions based on type of crime.

Test Statistics[a]

	JOB	Respect_friends	Respect_fam	Respect_neigh	Respect_SO	Hard_find_job	Live_how_you_want
Mann-Whitney U	75.000	136.500	129.000	101.000	99.000	99.000	106.000
Wilcoxon W	85.000	157.500	150.000	122.000	114.000	1180.000	1052.000
Z	-.447	-.045	-.408	-1.036	-.136	-.598	-.058
Asymp. Sig. (2-tailed)	.655	.964	.683	.300	.892	.550	.954
Exact Sig. [2*(1-tailed Sig.)]	.699[b]	.967[b]	.753[b]	.336[b]	.918[b]	.633[b]	.974[b]

a. Grouping Variable: Crime_2

Table 7

Test results showing similarities in levels of importance of anticipated informal benefits based on type of crime.

Test Statistics[a]

	Friends & fam will respect me more	Neighbours will respect me more	Dealers will respect me more	People will like me more	SO will be impressed
Mann-Whitney U	120.000	84.000	79.000	94.500	105.0
Wilcoxon W	141.000	105.000	100.000	109.500	1186.0
Z	-.746	-1.692	-1.776	-.603	-.3
Asymp. Sig. (2-tailed)	.456	.091	.076	.547	.7
Exact Sig. [2*(1-tailed Sig.)]	.574[b]	.128[b]	.094[b]	.571[b]	.77

a. Grouping Variable: Crime_2

Likewise, the two subgroups based on drug offence type did not show different patterns in the informal benefits they had anticipated being associated with the potential drug crime at the time of the decision to commit the crime (Table 7). What is surprising is their similarity in regard to the question 'If I sell drugs, people will like me more for the clothes, music, or other things that I can get'. However, as this question was aimed mostly at that section of the sample who had engaged in profitable drug crimes, the current subsample comprised of people charged with possession might have offered speculations rather than their own expectations.

As previously anticipated, I expected the two subsamples to be treated differently by the police in light of the way users and sellers are described in the legislation. The only right however which appeared to be differently applied by law enforcement was the right

not to be interrogated when sick (Fisher's Exact Test, $p < .05$). Indeed, people whose only crime had been possession were 14 times[80] more likely than people who had committed more serious crimes to be granted the right not to be interrogated when sick. While it is important to highlight that the people in the subsample of 'possession only' responding to this question were only four, it is still interesting to notice how this right was respected more for people whose only crime had been to possess illegal substances. It does confirm previous expectations that law enforcement might treat people seen as users more humanely, as the legislation provides for a double-track system and sees them as victims of the drug trade themselves, despite its controversial application of such labels and legislation. Still, Fisher's Exact Test shows that the two subsamples did not differ in terms of their right to contact their family ($p = .669$), contact a lawyer ($p = .419$), access health services ($p = .608$), and access substitution therapy ($p = .809$). These last two findings are quite troubling, as the people whose only crime is possession are the ones who are more likely in need of health services or substitution therapy in the form of methadone or suboxone. Still, considering the high rates of drug usage amongst sellers and deliverers, these results might mean that both groups had equal access to the services and substitution therapies.

Lastly, the two subsamples were treated the same by law enforcement in terms of opportunities for bribery,[81] verbal abuse ($p = .167$), denial of water ($p = .397$), and physical abuse ($p = .584$).[82] All these results point towards a minimal understanding by law

[80] OR 14, 95% CI [1.23, 158.84].

[81] I am not including the test results for 'Family asked a bribe to secure release' due to insufficient sample sizes.
'Family asked a bribe to secure a reduced sentence' Fisher's Exact Test, $p = .451$

[82] Due to the small sample size, it was not possible to determine the presence of differences in regard to denial of medical attention, use of handcuffs or restraints, sexual assault, and forced participation in sexual acts

enforcement of the difference between people whose only crime is possession for personal use, and people who instead engage in the drug trade for financial reasons. While the legislation clearly implies that users are victims of the drug trade, and should therefore be rehabilitated, they are treated just as poorly as those who 'victimise' them by providing them with illegal substances.

Group Four: Knowledge of the Law

This division into two subsamples was borne out of the necessity to understand whether differences in knowledge of the narcotic law had impacted the participants' risk assessment and their level of worry regarding potential future imprisonment during the decision-making process which led them to the commission of the crime for which they are currently incarcerated.

To avoid unnecessary complications related to the level of knowledge of the legislation, I only considered the people who replied, 'yes' or 'no' to the question 'Were you aware of the law about drugs?', therefore eliminating the 5 individuals who stated, 'yes and no'. As a result, the first subsample, comprised of the people who, during the decision-making process, had been knowledgeable of the law, is composed of 32 individuals; the second subsample, made of individuals who reported not having had knowledge of the drug legislation during that time, is populated by 17 people.

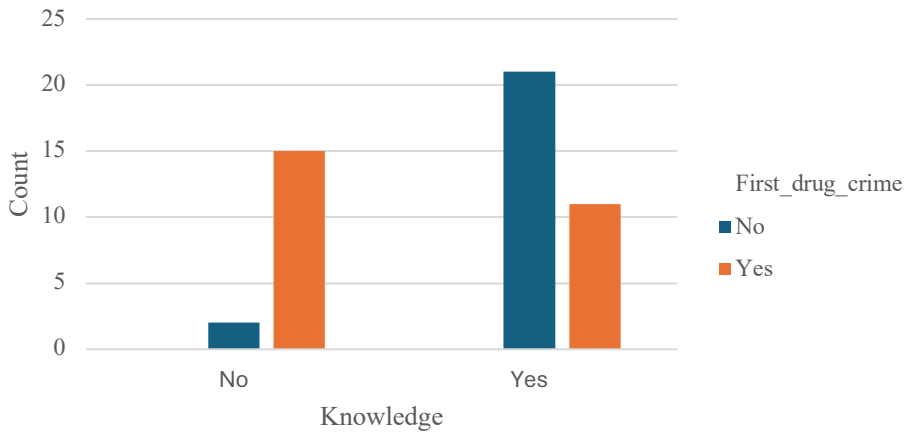
Knowledge did not have an impact on perceived risk of arrest ($U = 215$, $z = -0.97$, $p = .335$), perceived risk of conviction ($U = 230$, $z = -0.28$, $p = .782$), and risk perception of imprisonment ($U = 182$, $z = -1.60$, $p = .109$), as well as on how worried they had been during the decision to commit the crime about the prospect of being imprisoned ($U = 217$, $z = -0.89$, $p = .371$). This is one of the most important findings, as classical RCT

automatically associates knowledge of the law to a heightened risk perception, leading to deterrence.

Secondly, this section on knowledge is aimed at understanding whether there is a relationship between previous engagement in criminal activity, previous convictions, and previous convictions for the same crime as the one they are currently incarcerated for and knowledge of the law. It appears that indeed there is a relationship between these variables. In fact, people who had engaged in prior drug offending were 14.32[83] times more likely to have reported having had knowledge of the drug legislation during the decision-making process (Fisher's Exact Test, $p < .001$, Fig. 9).

Figure 9

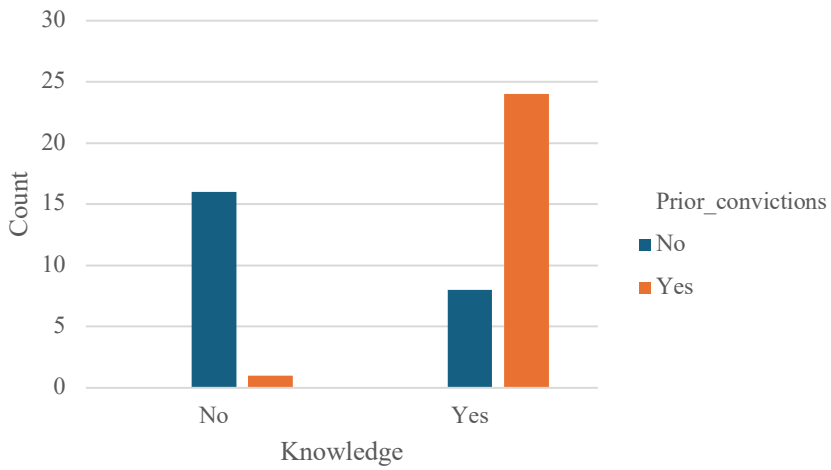
Whether the current crime had been the interviewees' first drug crime based on reported knowledge of the law.



[83] OR 14.32, 95% CI [2.76, 74.35].

Figure 10

Prior convictions based on reported knowledge of the law.



I observed a similar relationship when analysing prior convictions and knowledge of the law, with individuals with no prior convictions on average showing less awareness of the relevant legislation, according to Fisher's Exact Test, $p < .001$. In fact, people who had prior convictions were 48 times[84] more likely to have reported that they had been knowledgeable of the drug laws during the decision-making process, compared to people without prior convictions (Fig. 10).

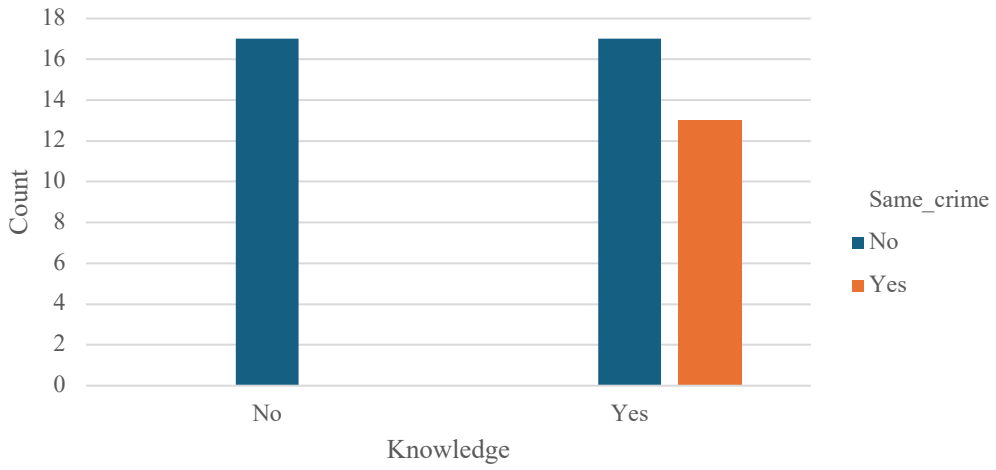
Likewise, people who had been charged in the past with the same crime for which they are currently incarcerated for were 27 times[85] more likely to have reported that they had been aware of the drug legislation when they had chosen to commit the drug crime (Fisher's Exact Test, $p < .001$) (Fig. 11).

[84] OR 48, 95% CI [5.46, 421.65].

[85] OR 27, 95% CI [1.49, 490.41].

Figure 11

Whether the interviewees had been convicted of the same crime before based on reported knowledge of the law.



Lastly, people who reported being aware of the narcotic legislation appeared to have had a lengthier career in the drug trade (in months) than people who reported having had no knowledge of the law (U = 159, z = -2.38, p = .017, η^2 = .115).[86]

Group Five: Risk Perception

I endeavoured to investigate whether splitting the sample along the line of risk perception would be a valuable way of gathering information on potential differences between people who had deemed their arrest, conviction, and incarceration as unlikely as opposed to those who had almost taken these risks as unavoidable. Considering the small sizes of the subsamples, I united the 'very unlikely' and 'somewhat unlikely' responses to a single

[86] I ran Shapiro-Wilk to test normality and since the distribution of the length of the criminal activity (in months) amongst the individuals who reported having been aware of the drug legislation departed significantly from normality (W = .86, p < .001), I performed a Mann-Whitney U Test instead of a t-test.

'unlikely' variable and proceeded to adopt the same procedure to produce a single 'likely' variable. Then, I tested whether by using these slightly different categories, the subgroups based on risk perception showed different levels of knowledge, or different timing during the decision-making. The results point towards similarities rather than differences. In fact, there are no differences in the level of awareness of the law between those who had thought arrest ($U = 59$, $z = -0.92$, $p = .454$) and imprisonment ($U = 88$, $z = 0.75$, $p = .533$) had been likely or unlikely.[87] Likewise, there are no differences in timing used to decide to commit the crime between those who had deemed arrest ($U = 21.5$, $z = -0.74$, $p = .500$) and incarceration ($U = 75.5$, $z = -0.31$, $p = .769$) as unlikely as compared to those who had believed it likely. These last results are crucial, as classical rational choice theory would deem risk assessment as one of the core aspects needing to be weighed during the decision-making process. According to the theory, those individuals who had deemed being arrested and incarcerated as likely should have attached a higher risk to the criminal behaviour, and therefore spent more time making the decision, including thinking about minimising risks or finding alternative routes to financial stability. Yet, these results clearly show that the two groups split along levels of perceived risk did not differ in terms of length of the decision-making process. Moreover, as they reported similar levels of awareness of the law, it indicates that the risk assessment might not be based on differences in actual knowledge of the punishment or their odds of incurring formal sanctions. To test this, I analysed whether risk assessment depended on their past experiences with criminal behaviour and involvement with law enforcement and the judicial system.

[87] I excluded perceived risk of conviction as none of the participants deemed it unlikely, therefore rending one of the subsamples sizes zero.

In regard to whether perceived likelihood of arrest had been influenced by people's prior experience in the commission of drug crimes, using Fisher's Exact Test I found no differences between people who had deemed their arrest as likely and those who had deemed it as unlikely (p = .279). Similarly, there were no differences between people who had been charged before for the same crime (p = .564) between the subsample of individuals who had believed their risk of arrest as likely and those who had believed it to be unlikely at the time when they were deciding whether to commit the crime they are currently incarcerated for.

Concerning their perceived risk of imprisonment, while there appears to be no difference between the individuals who had perceived their likelihood of imprisonment as likely and those who had believed it to be unlikely during the decision making process in terms of whether or not it had been their first drug crime (p = 1), and whether they had been charged with the same crime in the past (p = 1), such results are likely due to the small subsample sizes underpowering the test. If future research conducted on larger samples will find similar results, it would further decouple knowledge and risk assessment. While this stands in contrast to the findings in the previous section, concerning how prior engagement with the drug trade and the criminal justice system had helped knowledge formation amongst our interviewees, it could point towards a disconnection between knowledge and risk assessment rather than personal past experiences of the system and the knowledge of punishment itself.

In the case of individuals with prior convictions, the small sample size once again prevented me from finding robust results. While on the surface the two groups might have appeared almost significantly different in their risk perception of imprisonment, with all the people with prior convictions having believed at the time they chose to commit the

crime that being imprisoned would be likely, as opposed to 19% (five out of 27) of people without prior convictions, who instead had deemed it unlikely, the counts were too low to suggest a true difference. Future research on larger samples within this population is needed to explore whether past convictions are an important element in the legislative knowledge development process, as well as in risk perception formation.

Discussion

Dividing the general sample into different subgroups allowed me to introduce further nuance in the analyses of the backgrounds, criminal pathways, and decision-making processes of the interviewees. Starting from the assumption that separate sets of individuals might have engaged in different decisional processes due to their lived experiences and personal circumstances, singling out subgroups along the lines of a specific variable accounts for, at least, some of the heterogeneity inherent in the human condition. Still, the results reported in this chapter show that amongst the subsamples divided according to educational attainment, employment, and crime severity lines, similarity was the *fil rouge* rather than differences. Such similarities, especially in terms of highest level of education achieved and employment status, highlight the minor role played by engagement in formal institutions and organisations in shaping one's trajectory in the drug trade, as well as in the development of awareness of the law and perceived risk of arrest, conviction, and imprisonment. Interestingly, employment status was not associated with a particular pathway in the drug trade. This finding goes counter the results by Sugiharti and colleagues (2022) who found that by increasing employment by 1%, robberies (a financially motivated crime) would decrease by 0.11% within the Indonesian context. Because the current study does not have a control group, this specific

result needs further investigation. Moreover, as individuals in our sample at times appeared to be confused by the difference between formal and informal employment, as well as legal and illegal employment, and often compounded their legal and illegal earnings, a study on a wider scale is needed to make these findings generalisable.

An interesting finding which consistently emerged from multiple subgroups (divided according to educational attainment and employment status) was the difference in length of time lapsed from the offer to commit the drug crime and their choice to go through with the illegal activity, with less formally educated individuals and unemployed people taking more time on average to deliberate. While the third group of subsamples, drawn along the lines of severity of crime, did not show a significant difference in terms of timeframe for the decision making, it still leaned towards significance ($U = 22.5$, $z = -1.87$, $p = .074$). This lack of significance is likely due to the size of the 'possession only' subsample, comprised of three individuals. One potential reason for the scarcity of responses is due to the faster decision-making in which drug users appear to be engaging compared to people having to weigh the pros and cons of dealing or selling drugs. The situations in which a person is 'offered' to commit the two crimes, in fact, are often different, with possession for personal use usually driven by a physiological or psychological need or happening on an informal social occasion with lower stakes, as outlined in the narratives offered by our interviewees. On the contrary, the offer to deliver or sell drugs might not coincide timewise with the occurrence of the crime, and the individual might need additional time to organise the logistics of the offence and weigh the risks and benefits. For this reason, over 50% of individuals in our sample who had described their crime as possession might have not conceptualised our inquiry regarding timing as something applying to them, due to the instantaneous nature of their answer,

and the lack of deliberation. For this reason, despite the results only leaning towards significance, I still suggest a potential mediating role of the type of crime, with the implication that deciding to consume drugs or instead taking an active role in the drug trade by profiting off of it happen in different social circumstances and may entail different cognitive processes during decision-making, due to the different risk profiles of the activities.

A third theme which emerges from the similarities between those who had committed the crime of possession and those who had engaged in more severe crimes is the importance of informal social networks in the individual's development of their perceived risk. The results from the current study highlight the flat nature of the interpersonal relationships linking our interviewees to their immediate relations in the drug trade, with little differences existing between users and sellers. This is likely due to the high degree of use amongst sellers and the high number of drug users who got involved in more severe drug crimes through friends they used to consume drugs with. Indeed, this lack of distinction between users and sellers suggests a horizontal communicative structure of information regarding drug legislation, potential consequences, and risk assessment, as both subgroups showed similar levels of perceived knowledge and risk perception.

Contrary to my expectations that people who had committed more severe crimes would have been more concerned about negative societal reactions, the two subsamples were also similar in terms of perceived importance associated with informal sanctions. The high incidence of drug use, however, might explain this further similarity, considering the significant levels of stigma associated with drug usage, which might have made the more severe drug offences superfluous, as they might not have further negatively affected their

already tarnished reputation, or opportunities in the community. Considering the interpersonal horizontal structure between the interviewees and their closest links to the drug trade, likely due to their low station within the overarching chain of command, this fluidity within the ranks and close relationships between users, sellers, producers etc. might account for several of these similarities in anticipated informal sanctions.

Perhaps the most crucial finding in this chapter relates to the importance of past experiences of drug offending and contact with the criminal justice system in developing the interviewee's awareness of the relevant drug legislation, as well as potentially informing their likelihood of imprisonment. As previously mentioned, people with prior drug offending were 14.32 times more likely to have reported knowledge of drug legislation; people with prior convictions were 48 times more likely to report they had been knowledgeable; and people who had been charged in the past with the same crime were 27 times more likely to have reported having been aware. Likewise, I found longer careers in the drug trades to be associated to a higher awareness of the drug legislation, once again highlighting the importance of informal networks, word of mouth, and personal experience in knowledge formation. The importance of these factors is further compounded by the previous results on the insignificance of formal schooling or employment in the development and formation of knowledge of the legislation. Yet, most importantly, reported past knowledge of the law during the decision-making process appears to have had no impact on risk assessment. As knowledge of relevant legislation is a requirement for classical RCT and is assumed to have a direct impact on risk perception, having shown how, in the current sample, awareness of the narcotic law did not impact risk assessment at any level, questions arise on the applicability of classical RCT to drug offending within the Indonesian context.

The last important finding of this chapter pertains to the similarity in decisional timeframes between people who had believed their risk of arrest and incarceration to be likely and those who had deemed it unlikely, while they had decided whether or not to offend. Risk assessment is a core tenet of RCT and, according to its classical conceptualisation, individuals who had deemed arrest and incarceration as likely should have spent more time weighing their decision, including computing a risk-reward calculus, seeking out potential minimisation techniques, or looking into other (legal) ways of achieving the same goal. Considering the similarities of past experiences when looking at risk assessment, it appears that while previous experiences and convictions for the same crime are crucial for legal knowledge formation, they are not associated with risk assessment development. This issue however warrants further investigation as I found an almost significant difference in terms of risk assessment in regard to prior convictions. It stands to reason that those individuals who had already gone through the process of arrest, trial and incarceration would have gained the awareness that, once convicted, there is very little chance of being diverted from imprisonment. This could be due to the fact that people who had not been previously convicted had been hoping to be sentenced to mandatory rehabilitation rather than imprisonment, and that instead those who had been through the process before had been aware of the slim chances of being diverted from imprisonment, even when the only crime committed had been simple possession.

Conclusion

This chapter was borne out of the desire to find nuances within the individuals in our sample, and test whether people with different demographics, backgrounds, knowledge of the law, and risk perception had different profiles in terms of decision making and

pathways to crime. I analysed their trajectories after splitting the general sample into subsections along the different lines of inquiry, namely: highest level of education achieved, employment status, type of drug offence, knowledge of the law, and risk assessment.

While I highlighted many similarities within the different subgroups, evidencing a heterogeneity of background and pathways leading the criminal endeavour, I also detailed significant differences. Individuals with lower levels of educational achievement, as well as participants who had been unemployed had taken more time to decide whether to commit the crime. Moreover, while knowledge appears to be influenced by previous criminal endeavours and convictions, the latter did not appear to have a similar impact on perceived risk assessment, casting further shadows on the validity of classical RCT.

Now that I have reported all the empirical results of the study, in the next chapter I will draw the conclusions, highlighting the most crucial findings, and tying together the main research questions to the results, analysing them through the lens offered by the theoretical framework.

8. Conclusions

Introduction

In this concluding section, I synthesise the findings delineated in the previous chapters, interpreting them through the lens of the theoretical framework expressed in Chapter Two, and reflect on the implications for the literature on the subject, as well as for prospective policy formulation and legislation.

In the introduction to this thesis, I showcased how Southeast Asia has, in recent years, fully embraced a 'zero tolerance' approach towards drug crimes aimed at achieving a drug-free Asia, as campaigned for by the ASEAN (LBHM & Reprieve, 2020). Several countries in the region have embarked on fervent 'wars on drugs', exemplified by the Philippines' and Thailand's initiatives leading to thousands of deaths, and Indonesian President Joko Widodo's declaration of a 'narcotics emergency' (Human Rights Watch, 2018). The drug trade, however, has not diminished in volume in response to the highly punitive measures implemented by state governments (BNN, 2023). It is within this paradoxical juxtaposition of heightened sanction severity and escalating levels of drug offending that the current research is situated.

In the chapter explicating the theoretical framework, I have presented a comprehensive array of approaches to rational decision-making which different fields have proposed through the years. This study endeavours to fill the gap in the existing literature concerning decision-making processes within the specific Indonesian context for a type of offence (drug crimes) which is presumed to be pre-meditated, thus making it a prime site of intervention for policies aimed at deterring criminal behaviour by increasing the risks

associated with it. As the root of every drug offence is the personal decision of an individual to engage in it, in light of all the contextual factors surrounding the illegal activity, this research problematises the simplistic link between sanction severity and deterrence at the personal level, assumed by classical rational choice theory and constituting the basis for the highly punitive measures used in Indonesia in the hope of limiting drug offending. Moreover, it offers explanations for the failure of such measures to yield the expected decline in offending behaviours, and argues for the introduction of more complex models of human decision-making as the foundation for future policy development.

The almost totality of research conducted on decisional processes within the criminological field has used samples from Northern countries, with all the cultural and contextual implications inherently associated with them. Therefore, little attention has been paid to the role of culture and culturally influenced attitudes, including personality traits, in shaping criminal decision-making. This represents a significant gap which the current research seeks to address, reflecting on elements specifically relevant to the Indonesian context, and which play a significant role in decision-making: Of note, amongst them are the high levels of corruption permeating the criminal justice system, the distinctive familial structure, which greatly differs from that typical of Northern countries, and the heightened prevalence of the informal economy as a source of employment and income, but also of financial instability.

Overall, the findings buttress the imperative for a Southernisation of criminology, as well as the restructuring of the Indonesian penal system, particularly concerning drug-related offences. This entails a shift away from the prevailing inefficient Draconian paradigm towards alternative forms of punishment and drug use management based on

effective methods, such as harm reduction in helping to rehabilitate drug users and reintegrate them into society.

In conclusion, this research contributes to the wider project of Southernizing criminology, by offering more culturally pertinent insights into the applicability of rational choice models within the Indonesian context. It also enriches the body of literature pertaining to the lived experiences of drug offenders, through the use of qualitative interviews to amplify their voices in a field which has typically prioritised quantitative data. Lastly, it occupies the interdisciplinary nexus encompassing criminology, sociology, and psychology, drawing onto literatures from these different disciplines to offer a multifaceted interpretation of criminal decision-making.

Overview of Findings

As stated in the introductory chapter, the main objective of the current study was to analyse the decision-making processes of Indonesian drug offenders and assess to what extent they align with the assumptions implied by the Indonesian government in its response to drug offending. To respond to this overarching inquiry concerning the rationality of decision-making within a specific context, I formulated three separate research questions. The first two questions sought to delineate the demographic profiles and personal circumstances of the individuals incarcerated in Indonesia for drug-related crimes at the time of their decision-making processes which lead to their present imprisonment. The third research question focused on their knowledge of the relevant narcotic legislation, their perception of the risks associated with arrest, conviction and imprisonment, and the importance they had ascribed to specific informal sanctions while deliberating the commission of the offence. These questions were designed to

comprehensively evaluate their decisional processes from a variety of aspects, such as considerations of damaged social bonds, financial needs, potential informal benefits of the illegal activity, etc.

In Chapter Four, I addressed the discrepancy between the government narrative portraying drug offenders as dangerous foreign drug kingpins deserving of long-term imprisonment, or even a death sentence, for corrupting the Indonesian youth through the dissemination of illegal substances, and the reality of who inhabits prisons in Indonesia. In arguing against the excessively punitive nature of the Indonesian criminal justice system, and recognising the minor roles played by many of the interviewees in the criminal enterprise, I deem it necessary not to overlook the negative consequences caused by drug abuse to the individual and to society. I do not ignore the detrimental effects these substances can have, but rather advocate against the measures which have been consistently chosen to limit the drug trade in the country. Chapter Four challenges the conceptualisation of drug offenders as mostly kingpins and dangerous individuals as proposed by government and media narratives. Instead, in describing the interviewees in our sample – some of whom have been sentenced to medium to long-term imprisonment – I evidence the similarities between them and ordinary Indonesian citizens, albeit with disparities in educational levels and average income. These results are consistent with previous research conducted by Porio and Crisol (2004), which found similar characteristics in families of children involved in the drug trade in Indonesia: precarious finances, high degree of unemployment amongst the adult members, prevalence of informal work among those who were employed, low level of education, and crowded living conditions. Furthermore, the children in their study had been recruited by drug dealers by being initially offered free drugs, and then used as couriers or retailers once they

had become part of the network. As our study found that most of the interviewees had entered the drug trade at a tender age, and many participants had mentioned being offered the opportunity to consume drugs by a friend during childhood before being entrusted with riskier tasks, our results are consistent with previous literature on the topic.

The findings also highlight how in metropolitan areas such as Jakarta, certain types of employment can prove to be more vulnerable to recruitment due to the similarities between the tasks performed during the legal employment (e.g. delivering goods, receiving tips through a car window after helping a customer find parking) and the illegal activity (delivering illegal substances, exchanging drugs and money through a car window). The geographical urban context further contributed to their socioeconomic vulnerability to drug abuse, as a study on the vulnerability to entering the drug trade of different Indonesian provinces found the Jakarta area to have one of the highest socioeconomic vulnerability indexes. The latter is defined by the authors, as 'economic activities, related to situations or factors in society that might lead to drug abuse. This vulnerability is reflected in many factors such as education level, unemployment rate, income level, gender ratio, poverty rate, and access to health service' (Isnaini, Nitibaskara, & Usman, 2018, p. 1). From this definition of socioeconomic vulnerability, it appears that our interviewees had been exceptionally vulnerable to being recruited and entering the drug trade by virtue of their personal circumstances.

Furthermore, while the financial nature of the criminal endeavour had been a driving factor, not all participants had expressed living in abject poverty at the time when they had decided to commit the offence. Instead, 33 out of 53 interviewees reported having been able to afford basic necessities. While it would stand to reason for a person to discount risks in the face of extreme financial deprivation, one would assume that

improving one's lifestyle might not have the same power. However, I contend that relative deprivation, defined by the American Psychological Association as 'the perception by an individual that the amount of desired resource (e.g., money, social status) he or she has is less than some comparison standard' (n.d.) can exert a significant influence on people's behaviour, to the point of leading them to discount real risks, like that of arrest, conviction, and imprisonment. This is especially true in capitalistic societies, and in areas of the world with a wide economic gap between the lower and upper classes. The Gini coefficient, which is used to represent how much inequality of wealth is present within a country, is quite high in Indonesia (0.388), and the Indonesian Demographic and Health Survey (2017) reported that such unequal distribution of wealth is more accentuated in rural areas, with Papua on one extreme as most unequal and Bali on the other as most equal (The Jakarta Post, 2024); National Population and Family Planning board et al., 2017). Since one's perception of being disadvantaged due to an unequal distribution of wealth can make criminal outlets more appealing, according to the fundamental causes of crime, relative deprivation has been described as a potential 'micro-source of conflict' within the Indonesian context (Barkan & Roque, 2018; Tadjoeddin, 2019). Some of the ways in which this uneven distribution of resources can lead to more criminal activities is due to its role in the entrenchment of social segregation and the prevention of upward mobility to higher socio-economic statuses (Li et at., 2019). One article discussing the *jungkies*[88] lifestyle specifically mentions how the youth's inability to access opportunities, and the reification of status through objects which become 'tokens of power' has pushed many in the new generations towards drug consumption as an alternative to the uneventful and bleak normalcy of everyday life (Berman, 2003). As several research studies

[88] Indonesian spelling for junkies.

have found a troubling upward trend concerning Indonesia's income inequality, it may be unsurprising that financially motivated crimes such drug offences have been on the rise in the region (Kramer & Stoicescu, 2021; Tadjoeddin, 2019; Widyastaman & Hartono, 2021).

In summary, if Indonesia wishes to retain its punitive stance against drug offences, it needs to maintain the commonly acknowledged, albeit erroneous, understanding that drug offenders are society's primary enemy. If this assumption were to fail, no executions would be warranted for people involved in the drug trade as it would not meet the 'most serious crime' criteria inscribed in Art. 6(2) of the ICCPR, which Indonesia has ratified. Likewise, the hyper-incarceration of low-level drug users and dealers would not be justified. This chapter stripped back the stereotypes around drug offenders, revealing the common human core, and the contextual realities that have a better chance at informing evidence-based policy, and changing the narrative surrounding these highly stigmatised offences and those who engage in them.

The remaining empirical chapters more directly assessed components of decision-making, such as the required knowledge of the relevant legislation, and the different concerns which theoretically should have dissuaded individuals from engaging with the criminal activity, yet ultimately failed to exert significant influence. The picture which emerged from these findings is that of individuals who had been highly aware of the illegal nature of their activities, and who had perceived their likelihood of apprehension, conviction, and incarceration as very high. However, contextual factors such as the pervasive corruption within the Indonesian criminal justice system, personal attitudes such as high levels of fatalism, and the intertemporal lapse between immediate rewards and future risks contributed to the discounting or complete dismissal of the risks in favour of

pursuing the criminal endeavour. Neither the severity of punishment, which some of the interviewees had already experienced, nor the importance they claimed to have associated with informal sanctions (e.g. loss of respect of a loved one), had been enough to deter them in the end.

It becomes imperative then to consider the decision to commit drug offences in Indonesia as a multifaceted process which extends beyond formal punishments and sanction severity. Game theory, despite its limited ecological validity, underscores the dynamic nature of the interplay of the different actors involved in the criminal justice system. While behaviours can change in response to shifts in punishment and inspection incentives, the subsequent trajectories of crime and inspection rates do not converge toward predictable outcomes over time, but instead stabilise (Rauhut, 2009). This is clearly evidenced by the failure of the drug-free Asia agenda and the concurrent rise in drug offences in the region, despite the increasing resources allocated to uphold the punitive campaign against drug offenders.

If we consider decision-making as 'reasonable' rather than 'rational', as suggested by van Gelder (2014), we acknowledge the influences of emotional factors, such as the possibility of dual-process cognition, psychological factors, such as one's personal sense of agency, as well as sociological elements, like corruption levels or trust bonds during recruitment, and cognitive factors like heuristics and biases (e.g. temporal discounting). Reith's (2004) scholarship on edgework further resonates with the findings, especially in regard to society's shift towards instant gratification and hedonism, turning drug offending itself into a reaction against the rationality of everyday life. Hence, it is possible that addressing these types of crimes 'may require a fundamentally different response from the criminal justice system to prevent offenders from a re-offending, than cognitive, calculated

offences' (van Gelder, 2013, p. 757). Therefore, optimising governmental resource allocation to align with this nuanced understanding of decision-making could yield more effective outcomes for both the state and the individuals impacted by drug offending.

Chapter Five highlighted how the heightened punitiveness in the region and the harsh penalties the government imposes on drug offending (even for low-level users), as exemplified by the recently passed Criminal Code in 2022, did not appear to carry meaningful weight during the risk-reward calculations implicit in classical RCT. Shifting the focus on informal sanctions and increasing their impact on individual decision-making however is not a simple task, as any blanket-policy would fail to take into consideration the nuances inherent in human interaction, especially at the interpersonal and familial levels. Yet, as first proposed by Durkheim and then supported by social control theorists in more recent times, social norms are only truly respected when individuals internalise them both formally and informally during their socialisation within their community (Fagan & Meares, 2008). Since families and communities are a product of the environment they inhabit, investments in institutions which are crucial for value-formation and community-strengthening could increase the *(dis)utility* of informal sanctions and increase the *personal capital*. Simultaneously, they would provide a community-wide safety net for potential offenders to use in times of need as an alternative to criminal activity. Additional evidence in support of investing in community-wide services comes from Morris Janowitz's (1975, 1991) idea of 'communities of limited liability'. Janowitz (1991) states that when a community is unable to meet the demands of its residents, its liability becomes limited and consequently the inhabitants are likely to disengage from societal norms of the community, either partially or completely. As the individuals in our sample represent a section of society whose needs are often unmet, they might have partially retreated from

societal norms, rendering the criminal decision-making swifter and less morally constrained.

Even more concretely, investing the resources currently used to support the highly punitive criminal justice system into welfare initiatives could well constitute a more effective strategy of reducing offending. In fact, Fagan and Meares (2008) report that 'long term and spatially concentrated shift of social and economic resources from informal social controls to formal legal controls, particularly incarceration, weakens localised informal social controls and creates recurring cycles of discontrol' (p. 173). Poor access to welfare, in turn, exacerbates the already soaring economic inequality in Indonesia, which I observed not only fuelling financial desires and materialistic wants among the interviewees in the current sample, but also hindering: 'social capital or regulation, "stakes in conformity" through marriage and work, and participation in political institutions' (Fagan & Meares, 2008, p. 173). To this point, Shobirin, Din and Ali (2024) call for the reform of the Narcotic Act to better encapsulate national values based on Pancasila. The authors point out the lack of a compensatory option for drug users – who are technically categorised as victims of the drug trade – as a form of alternative punishment, stating that repayments and restitutions are only used in cases of human rights violations, terrorism, child-related crimes, etc. Moreover, they highlight the importance of a synergic societal effort aimed at preventing drug crimes and strengthening traditional support systems to further discourage potential offenders. Pancasila offers a view of society as monodualistic, rather than strictly individualistic or collectivistic, highlighting the reliance that individuals have on society, as well as society on the individual, in a symbiotic relationship which benefits both, as opposed to one being solely propaedeutic to the other. As aspects of this balance are reflected in Indonesian criminal law and are in concordance with Islamic

criminal law such as prioritising balance and protecting the interests of crime victims (Royani & Park, 2023), the highly punitive approach adopted by the government towards drug offenders, including drug users, appears to disavow the importance of the individual in its bond to society, further alienating them. In turn, as expressed in the introduction, the harsh punishments associated to drug offending have damaged society itself, by hindering Indonesia's effort towards the Sustainability Development Goals, entrenching poverty, limiting future employment opportunities, and creating a societal environment where providing informal support to a drug offending family member without reporting them to the authorities is punishable by law, further eroding the ties holding the individual within the societal tapestry.

Crucially, Sugiharti and colleagues (2022) have tested the relationship between income and criminality within the Indonesian context. Their findings indicate that if the per capita income were to be increased by a single 1%, murders would decrease by 0.96%, physical abuse rates would also go down by 0.47%, and that, most relevantly for the present study, economic crimes like robberies and fraud would decrease by 1.82-3.35% and 1.60% respectively. Furthermore, an increase in employment by 1% would lead to a decrease in robberies by 0.11%. While drug-usage is not classified as an economic crime, it is correlated with unemployment and low socio-economic status, therefore implying that an improvement in drug users' financial situation would likely also decrease their reliance on drugs. Within the Southeast Asian context, where many meth-users admit to consuming the substance to sustain longer hours of strenuous activities, a better per capita income could open up additional employment possibilities which would not force individuals to rely on synthetic strength and stamina (International Drug Policy Consortium, 2019).

The existing literature concurs with the role that fast changes in societal and economic structures play in changing informal social controls (Fagan & Meares, 2008). Considering Indonesia's extremely rapid economic growth in the past twenty years during the *Reformasi* era, as it aspires to transform itself into a more progressive and global environment, it is unsurprising that informal social control processes which might have operated at full power in the twentieth century may now have now lost their potency. In summary, 'whether social control is effective depends on the socio-economic factors that set the various costs attached to informal controls' (Fagan & Meares, 2008, p. 188).

Building on the significance of the socio-economic structure within a community, it is worth noting the role society plays in reintegrating the individual after the end of their formal punishment, and how it can act as a protective factor as regards to recidivism. In particular, reintegrative shaming, defined as a 'shaming which is followed by efforts to reintegrate the offender back into the community of law-abiding or respectable citizens through words or gestures of forgiveness or ceremonies to decertify the offender as deviant' (Braithwaite, 1989, p. 100-101) has been found to be supported by communitarianism and interdependency (Lu, Zhang, & Miethe, 2002). These two elements, once central to socio-economic structures, have over the years lost ground to independence and individualism, resulting in punitive sanctions, as it is the case within the Indonesian context, being the primary perceived source of control.

Following the suggestions for increased expenditure on welfare and community resources, as opposed to an overly punitive criminal justice system, I invoke Adler's (1983) concept of *synnomie*[89] inspired by Durkheim's ideas of social solidarity. Adler (1983) argues that countries like Switzerland and Japan have lower crime rates because of the high level

[89] Adler conceptualises *synnomie* as the opposite of anomie.

of *synnomie* (condition of social solidarity) among the population, encouraging feelings of personal responsibility and highlighting the individual's role in crime control (Clinard, 1978). While these findings were drawn from very limited data, they open an interesting avenue for future exploration centred on the interplay between societal structure, individual perception of one's role within this structure, and the moral dimensions implied by it.

These results offer a clear explanation of why the country's investments in highly punitive measures against drug offending have failed to yield the anticipated reduction of such crimes. In summary, when the individual is faced with the choice to commit a drug offence, severity of punishment is not a sufficiently salient factor, and the decision-making processes of drug offenders in Indonesia do not align with the criteria needed for offenders to be considered truly rational. This is supported by the literature concerning not only the disruptive nature of drugs on the areas of the brain which involve decision-making, but also the limited deliberation in which potential criminals tend to engage prior to committing an offence (De Lisi, 2016; Feeney, 1986). Moreover, it is in line with the growing body of research studying the limitations of human rational decision-making, such as the theorised presence of two separate cognitive pathways, one of which is susceptible to statistics and rational calculation, the other reactive, more susceptible to situational stimuli and guided by emotion (van Gelder, 2013, 2017; Kahneman, 2011). It is for this reason that recentring the social and personal element within criminal decision-making discourse is crucial. After beholding the full breadth of factors which influenced our interviewees' decision to offend, I believe that only an integrative theory able to encompass concepts and elements from the personal, interpersonal and familial, societal, and institutional spheres would be able to offer a realistic description of the decisional processes

underpinning the choice to offend. A theory of reasoned decision-making aimed at understanding why individuals decide to engage in drug offences would need to take into consideration pre-existing neurobiological conditions, as well as personality traits, sociological factors (e.g. wealth, enmeshment in the community) and indexes related to law enforcement (e.g. efficiency, likelihood of successful bribing). These latter sociological and institutional factors, which emerged as key components of criminal decision-making amongst Indonesian drug offenders in the current research, would root an integrative theory within the specific geographical and cultural area, furthering the Southernisation of the criminological field by providing explanatory lenses unique to the Indonesian context.

Implications

From a policy perspective, the findings of the current research underscore a systemic failure effectively to address drug abuse in Indonesia. Even if we are to ascribe to the arbitrary notion of a 'narcotics emergency', such as that proposed by President Widodo, the present study has elucidated the fallacy of relying solely on sanction severity to decrease drug-related offences. Contrary to such punitive measures, testimonies from countries that have adopted decriminalisation policies do not show rampant drug abuse, further suggesting that responses other than long-term incarceration for drug offences, or even capital punishment, might be more suitable for curbing drug offending without damaging the country's social capital (International Drug Policy Consortium, 2016).

The adoption of a 'tough on crime' approach against drug offenders, especially the execution of foreign nationals, has sparked an international outcry and damaged Indonesia's standing on the international stage, as well, potentially, as the fate of Indonesian citizens abroad sentenced to death. Furthermore, this punitive stance has had

a layered detrimental effect on the country. At the individual level, drug offenders sentenced to lengthy periods of incarceration encounter significant barriers to reintegration upon release, further increasing the risk of recidivism and perpetuating cycles of criminality. At the community level, the imposition of stigma, societal condemnation, and formal sanctions if they fail to report a loved one's involvement in the drug trade, even as a user, prevents family members from providing an effective support system. This only exacerbates socioeconomic vulnerabilities, with families being plunged into destitution when, for instance, the main wage earner is incarcerated for periods of up to twenty years for couriering drugs over a set amount. Indeed, hyper-incarceration takes workers away from their families, parents from their children, and puts an extreme strain on a family's financial situation, as all family members are not only called to support themselves, but also their loved ones in prison, considering the rampant corruption and bribing culture of the Indonesian prison system. On this matter, the law coordinator at the Asia Foundation in Jakarta, Leopold Sudaryono stated:

> I think that since the resources are scarce, they [inmates] need to pay for the resources like food, even for the mattresses, you've got to pay rent for that. [...] You have to pay for everything if you can afford and if you don't have family support you need to work inside serving other inmates (Voice of America, 2013).

At the national level, as introduced in the discussion regarding the Sustainable Development Goals, this punitive approach against drug offending has backfired. It has engendered poverty and hindered social mobility through the aforementioned mechanisms at the community level; likewise, it has created significant expenditure, as great financial resources are needed to investigate drug offenders, try them in court and then support them during incarceration.

In summary, the existing literature on the matter has clearly evidenced the link between hyper-incarceration and weakened communities (Rodriguez & Turanovic, 2018). This punitive paradigm not only severs family bonds and places undue strain on financial resources but also slows national progress by entrenching socioeconomic disparities and blocking avenues for social advancement.

The government class is the only entity reaping the benefits of this overly punitive system, with politicians gaining the favour of the public for their 'tough on crime' approach, while the legislation sanctioning narcotic crimes is heralded as a dam standing between the righteous citizens and a flood of dangerous drug criminals. Yet, this narrative has been dispelled time and time again, including by the current research project, revealing the reality of who most incarcerated drug offenders are, as well as how inadequate the current narcotic legislation is in actually reducing drug offences.

The main implication of this study for future academic scholarship is the need for more research to be conducted in countries which are culturally and contextually different from the Global North, where most theories used to guide legislations have been developed and tested. Indeed, more efforts need to be expended to Southernize the field of criminology and to break down those erroneous assumptions based on ideals of universality that have misunderstood or misrepresented entire criminal justice systems by not embedding them in their surrounding cultures, instead moulding them off the image of Northern ones. These colonial legacies, not only at the obvious legislative level, but also in the academic and theoretical spheres, have for centuries done a disservice to those who become involved in criminal activity, and to the wider society, by failing to understand the mechanisms of criminal decisional-making and pouring resources into crime control strategies that further entrench marginalisation and promote negative life trajectories.

Given the paramount significance of culture in shaping decisional processes, as it influences individuals' beliefs and attitudes, it is unfortunate that the exploration of personal idiosyncrasies has found little purchase within the study of decision-making processes in recent years. While past 'dispositional theories' sought to pinpoint specific characteristics able to influence certain individuals towards riskier behaviour, contemporary literature has focused more on macro-level societal categories, mirroring the 'actuarial turn' characteristic of the new penology. Consequently, the present study raises further questions on the role of individual emotional states during the decision-making process and, interestingly, on the connection between emotion, criminal decision-making, and the sociological ideals proffered by the current post-modernist era.

In conclusion, this study supports previous literature on the inefficacy of mere sanction severity in dissuading criminal acts (Gardner & Steinberg, 2005; Nagin & Paternoster, 1993; Rauhut, 2017; Wilson & Herrnstein, 1985). It posits that the reason behind this inefficacy lies in a decisional process devoid of the level of rationality necessary to fully consider the heightened risks inherent in drug crimes in Indonesia, therefore undermining any deterrence mechanism. As formal sanctions require an appreciable amount of financial resources to be administered, and do not appear to be effective in significantly decreasing this type of criminal activity, the government could thus save significant capital by decreasing the level of punitiveness and decriminalising low-level drug offences. In fact, decriminalisation of low-level drug offences would decrease prison overcrowding, while releasing funds needed to prosecute drug cases. These resources could be diverted to focusing on other approaches with higher efficacy levels, and which are not as discriminatory and stigmatising as the current mandatory rehabilitation strategies (Stoicescu, 2015). In fact, considering the success that harm reduction initiatives have had

internationally, shifting narcotic legislation to encompass more harm reduction goals, and truly adopt a rehabilitative approach for both drug users and drug offenders at large would be a sounder evidence-based strategy compared to the current one, which has led to the hyper-incarceration of mostly underserved members of the community.

Indeed, Indonesia is already home to local initiatives which offer a more compassionate and *effective* approach to rehabilitation. Some examples of groups that are voluntary and community-based are Rumah Cemara and Rumah Singgah Peka (Stoicescu, 2015). To highlight the diametrically opposed approach of these communities compared to the aforementioned programmes mandated by the government, note the following mission statement released by Rumah Cemara (2022) [translated from Bahasa Indonesia]:

> The founders and program workers at Rumah Cemara learned that one approach might not fit everyone. Therefore, as contemporaries of drug consumers and people living with HIV, we continue to apply various approaches that allow us to grow and be useful to society. [...] In its journey, Rumah Cemara has positioned itself as a community organization that fights to remove the stigma against drug consumption and people with HIV. Through the dissemination of information that is based on scientific evidence, Rumah Cemara also garners public support in formulating objective policies regarding the consumption of medicine and services for people with HIV.

Keeping with civil society initiatives, networks such as Persuaduraan Korban Napza Indonesia (PKNI) and the Indonesian Harm Reduction Network (Jangkar) have also proved to be useful resources for drug users to access harm reduction services and improve their life conditions without the involvement of forced treatment. Together with Rumah Cemara and the Indonesian Association of Addiction Counsellors, they have created the Indonesian Coalition for Drug Policy Reform (ICDPR), to promote drug policy reform, and to protest compulsory reporting of drug users (Lai et al., 2013).

Initiatives aimed at diverting and decriminalising drug offences offer a more effective, humane, and contextually grounded response to drug offending in Indonesia compared with intensified punitive measures. While some might argue that eliminating corruption or enhancing enforcement mechanisms could strengthen the current punitive system, this study provides compelling evidence to the contrary. First and foremost, it highlights how corruption in Indonesia's criminal justice system is not an isolated phenomenon but a deeply ingrained structural issue, supported by economic, cultural, and political dynamics. Strengthening enforcement mechanisms or increasing the severity of penalties cannot resolve these systemic issues in the short term. Instead, such measures risk perpetuating inequality and exacerbating the very conditions (e.g. poverty, distrust in institutions, marginalization) that push individuals into the drug trade. Diversion programs, by contrast, bypass the corrupt enforcement apparatus, focusing resources on treatment, rehabilitation, and social reintegration. There is also the argument that if the country wishes to indeed move towards legislation reflective of the 'Indonesian way', based on national principles unique to its indigenous culture, for instance Pancasila values, rehabilitative and humane approaches would offer a better foundation. As stated by Setiawan (2018), the idea of 'dignified Justice' should be a central focus within drug legislation; likewise, the fourth principle of Pancasila, Democracy, should translate into rehabilitation policies steeped in compassionate traditional justice practices which see both law enforcement and drug users as part of the collective society. Setiawan (2018) also aptly discusses how the Democracy principle of Pancasila, in highlighting the importance of individual participation, should translate into rehabilitative outcomes shaped by the drug users themselves, mirroring practices of traditional village deliberations which accentuate collective decision-making.

Furthermore, this research revealed that many offenders operate under bounded rationality, heavily discounting risks in favour of immediate rewards due to socio-economic pressures, cultural norms, and trust in their recruiters. Policies based on deterrence instead assume rational actors who weigh risks and rewards, forming a portrayal that is not aligned with the realities observed in this study. The punitive approach has exorbitant economic and social costs, including prison overcrowding, disrupted family units, and the perpetuation of poverty. By contrast, diversion and decriminalisation alleviate these burdens by shifting resources from incarceration to prevention and rehabilitation, addressing the root causes of offending, such as economic hardship and lack of education. These policies have been successfully implemented in other jurisdictions, such as Portugal, which has seen significant declines in drug use and drug-related harm following decriminalisation, while the drug-free Asia and zero-tolerance agendas shared by many countries in the region have not only failed to achieve similar results, but have also damaged the social tapestries of the countries and further entrenched poverty and inequality (Hughes & Stevens, 2007; LBHM & Reprieve, 2020).

Limitations and Future Research

The current study faces several limitations which warrant consideration. Firstly, the sample size is relatively small (n = 57), if we consider the overall population of inmates sentenced for drug-related offences in Indonesia; this may impact the generalisability of findings. Although this size allowed for qualitative analysis of emerging themes from the interviewees' narratives, and some statistical comparisons between subgroups, the conditional nature of many questions resulted in further reduction of the sample size, limiting the scope of the quantitative analyses.

Additionally, data collection was confined to a single prison facility in Jakarta, classified as a Category I top-security prison. Therefore, we cannot assume that the drug-offender population we observed in this specific prison would be the same in, for instance, a Category III facility. However, considering the low-level offences that many of the interviewees had committed (e.g. simple possession, or dealing of low quantities of drugs), their confinement in a top-security facility underscores the discrepancy between societal perceptions of drug offenders and the reality of who inhabits such institutions.

Another notable limitation is the gender composition of the sample, comprising almost exclusively of male participants. Cipinang prison is an all-male facility, though one individual identified as a woman, while two other people preferred not to specify their gender. This precludes analysis of gender dynamics in relation to drug offending behaviour and criminal decision-making processes. Future research should seek to include more female drug offenders to highlight possible differences in their pathways into the drug trade within the Indonesian context, as well as their personal circumstances preceding the decisional phase. Indeed, past literature conducted in Malaysia has evidenced how there are clear gender-based differences when it comes to drug offending (Harry, 2021). Moreover, the present sample was only comprised of Indonesian citizens. While this is an apt representation of the majority of people incarcerated for drug offences in Indonesia, considering the government and media narratives concerning illegal substances being a foreign tool for subversion, future research should endeavour to expand the sample to include foreign citizens convicted of drug offenders within Indonesia.

On a separate note, due to the data gathering phase having a specific timeframe, with access to the prison institution being granted for a set number of days, it was not possible to ask for further clarifications with interviewees whenever a doubt concerning

one of their responses arose. Occasionally, this limited the depth of data interpretation. It is also worthwhile reiterating limitations pertaining to the research design of this study, namely the choice of asking the interviewees to remember and discuss events from their past, and how this raises potential issues for the validity of the answers. As introduced in the methodology chapter, participants may have forgotten about specific aspects of their decision-making process, might misremember, or might even 'rewrite' past events and motivations as a neutralisation technique (Sykes & Matza, 2017). Considering the interview setting, participants may have also fallen prey to social desirability bias, therefore responding a in manner which might paint them in a more positive light as they sought the approval of the interviewer (Edwards, 1957). To this point, I would like to commend the ability of the Atma Jaya interviewing team for ensuring participants felt heard and at ease enough to open up about potentially shameful and hurtful topics without fearing judgement. Their past research experience dealing with similarly complex subjects among vulnerable populations also ensured interviews were conducted in an informal but sensitive way, diminishing the risks of social desirability bias. Lastly, it is important to note that the interviewees incarcerated status, and their experience of the criminal justice system which lead to the incarceration may have skewed their risk perception, according to hindsight bias (Fischoff, 1975). While the interviewers reminded the participants to immerse themselves in the time when they made the decision to commit the offense, it is inevitable that part of their current knowledge of the system and personal experiences may have distorted their risk perception.

The most notable limitation is perhaps the lack of a control group. Therefore, it was not possible to compare, for instance, levels of concern regarding incarceration, or overall risk perception, between a sample of unsuccessful offenders and members of the

community who might have been offered the same choice but refused. For this reason, this study cannot conclusively argue whether the personal circumstances, level of knowledge of legislation, risk perception etc. were different amongst the participants as opposed to the average member of their communities who may have had the opportunity to become involved in the drug trade. Future research should seek to analyse similar variables within the wider community, to assess whether the findings of the current research deviate from similar members in their respective communities, therefore potentially producing a specific profile of individuals who are more likely to engage in drug offending as opposed to those who do not choose to become involved.

Lastly, further research endeavours should delve deeper into dispositional dimensions related to drug offending within the Southeast Asian context. Specifically, future studies should include examinations of self-control models and investigate the role of personal agency and emotional states within the decision-making framework, contextualised within the regional dynamic. Moreover, given the focus on the financial aspect of drug offending, even amongst individuals not experiencing abject poverty, future research should investigate the influence of materialistic attitudes and relative deprivation on financially motivated criminal behaviour in a diverse range of contexts, economies, and cultural landscapes. Furthermore, examining cultural shifts towards capitalism in societies historically characterised by collectivism, but currently engaging in capitalistic practices, warrants attention. This exploration is particularly relevant in the contest of post-colonial legacies and the implications of neo-imperialism on contemporary socio-economic structures.

Final Remarks

The practice of sentencing drug offenders, even those involved in minor or moderate offences such as consuming drugs or couriering, to lengthy terms of imprisonment is ineffective in limiting the volume of drug crimes within the Indonesian context. During the decision-making process, individuals do not afford sanction severity enough weight to sway the decision into non-offending. Rather, other salient factors appear as more significant to the individual during the decision-making process, such as the immediateness of the rewards, their trust in their recruiter or personal attitudes towards criminal endeavours. Furthermore, by prioritising sanction severity above all, the simplistic decisional mechanism assumed by the Indonesian government, and constituting the basis of all narcotic legislation, fails to take into consideration individual- and community-level dynamics, as well as broader societal ones. The pervasive corruption within the Indonesian criminal justice system introduces high levels of uncertainty of punishment, undermining the efficacy of risk-reward calculi and potentially incentivising criminal behaviour through bribery. The relational nature of drug offences adds a further layer of complexity, helping individuals discount risks through their reliance on long-time friends and their expertise in the drug trade. Lastly, personal differences in impulsivity, materialistic attitudes, and fatalism all influence the personal decision to commit a drug offence. These multifaceted factors all necessitate inclusion in any decisional model wishing to fully capture human decision-making processes and inform policies and legislations capable to effectively address drug offending in the region.

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Appendix A

Protocol - prison interview
Materials: information sheet, informed consent, audio-recording form, Brief Jail Mental Health Screening tool (BMHJ), pin-protected recorder (if prison allows), refreshments (if prison allows), compensation/gift (if prison allows).
Colour coding:
Blue: introductory section.
Red: interviewer speech that is not part of the questions.
Purple: open ended questions and open-ended prompts.
Green: notes for the interviewer.
Interviewer: Good morning/afternoon [name], my name is [RA name] I am a Researcher from Atma Jaya University. In partnership with the University of Oxford, we want to find out what persuades people to commit offences related to drug crimes like the one you were charged for. We want to learn about their lives and what their thoughts were at the time they made the decision to commit the crime for which they are in prison.
You are invited to take part in the research. This form contains information to help you decide whether you want to join the study. *Passes informational sheet*.
If you choose to participate, you will be asked to respond to some questions about what your life was like at the time right before you committed the crime. This will take about one hour and if you need to pause at any time, just say so and we will take a break.
Your participation is voluntary, and you can stop at any time. Please, take time to read this form and ask questions before deciding whether to take part in this research project. If you prefer, I can read it to you.
Participant is given the interview sheet. Interviewer should verbally go over the information sheet with the participant
If you want to join this study, I will need you to sign an informed consent form. It says that you agree to participate and that we can use your answers for our study. You do not have to participate if you do not want to; it is up to you. If you decide not to be in the study, nothing changes for you. There will be no negative consequences to saying, "I don't want to take part". And even if you say "yes", you can change your mind later at any point. You can stop the interview and leave. It is also your choice whether we use the data collected during this interview. Everything you say will only be shared within our research group of about ten people. We will transcribe the interview and delete any information that could identify you. However, there are limits to confidentiality, so please do not say anything that could put you or other people in trouble.
Interviewer hands over informed consent
We would like to audio record the session. This way we can make sure that we get every word right and that nothing is lost. If you are okay with this, please sign this document. It states that you allow us to record the interview. Only the research group will be able to hear the audio recording. No one else will know what you say, and they won't know that you took part. We would like to be able to use some of your words in our report, but these will be anonymous. We won't put your name anywhere on the report and we won't use information that would allow anyone to know that you had said it. Let me know if you are okay with us including quotes from what you say, or if you'd prefer us not to, and I will make a note of your preference.
Interviewer passes audio-recording form

Wait for the participant to finish before proceeding
If you feel uncomfortable at any point and you do not want to respond to some questions, you do not have to. However, if you give an answer, we ask you to be as honest as possible. Most of the questions ask you to remember what you were thinking, feeling, or what you knew at the time before the crime. This means that some time might have passed. If you are unsure about your memories, take your time and give an answer that is as accurate as you can.
We want to thank you for your participation. After the interview, you will receive [small gift] as compensation for your time.
Interviewer gathers documents, places recorder on the table and pushes play, if participant has signed audio-recording form
To start off, I would like to know...
[Demographics]

1) What is your date of birth?

Month: ☐☐ Year: ☐☐☐☐

2) What is your gender?
- Female
- Male
- Non-binary
- Prefer not to say
- Other (specify): _____

3) [If not Indonesian] What is your nationality? _____

4) What is the highest level of education you have completed?

- I have never been in school
- Completed elementary school
- Completed junior high school
- Completed high school
- Postsecondary education (diploma, vocation training)
- Graduated university

5) How would you describe your relationship status?
- Single
- Married
- Separated/Divorced
- Widowed
- Other: _____

[Background]
6) What were you convicted for?

7) Describe what you did to be convicted for that.
[If the interviewee says that they are innocent, deny involvement in any criminal activity or

claims that they did not know that what they were doing was criminal, then skip to question 58 (procedural safeguards)]

8) What articles were you convicted for? (Choose all that apply)

- Article 111: plant, maintain, possess, store, control or provide Narcotics Category I in the form of plants
- Article 112: possess, store, control or provide Narcotics Category I which is not a plant
- Article 113: produce, import, export, or distribute Narcotics Category I
- Article 114: offer to be sold, sell, buy, receive, broker in the sale and purchase, exchange or give the Narcotics Category I
- Article 115: carry, transfer, transport or transit the Narcotics Category I
- Article 116: use the Narcotics Category I against others or provide the Narcotics Category I to be used by another person
- Article 117: possess, store, control, or provide the Narcotics Category II
- Article 118: produce, import, export, or distribute the Narcotics Category II
- Article 119: offer to be sold, sell, buy, receive, broker in the sale and purchase, exchange, or deliver the Narcotics Category II
- Article 120: carry, transfer, transport or transit the Narcotics Category II
- Article 121: use the Narcotics Category II against others or provide the Narcotics Category II to be used by another person
- Article 122: possess, store, control or provide the Narcotics Category III
- Article 123: produce, import, export, or distribute the Narcotics Category III
- Article 124: offer to be sold, sell, buy, receive, broker in the sale and purchase, exchange, or deliver the Narcotics Category III
- Article 125: carry, transfer, transport or transit the Narcotics Category III
- Article 126: use Narcotics Group III against another person or provide the Narcotics Group III to be used by another person
- Article 127: use the Narcotics Category I, Narcotics Category II, or Narcotics Category III
- Article 132: commit narcotic crimes in collaboration with other suspects

Prompts: **8a)** [Only if they checked articles related to drug trafficking (Articles 113, 114, 115, 118, 119, 120, 123, 124, 125) or described a trafficking-related activity in response to questions 6-7] Did you know at the time that you were trafficking drugs (importing, transporting, exporting)?

- Yes
- No

9) Did you know what type of drug you were_____ ? [Interviewer will need to fill the blank with the crime the interviewee described in questions 6-7]

- Yes
- No

10) What was your sentence? _____

Prompt: **10a)** [Only if they say death sentence] Did you know at the time that the quantity of the type of drugs you were moving could result in the death penalty?

- Yes
- No

10b)[If 'no' to the death sentence question and they do not specify the length of imprisonment] How long is your prison sentence? _____

11) Did you have to pay a fine?

- Yes
- No

11a) [If yes] How much was the fine? _____ Indonesian Rupiah
11b) [if yes] Did you pay the fine?

- Yes
- No

11c) If the fine could be converted into time in prison, how long would this time be? _____

12) Describe your life before you went to prison.

Prompts: **12a)** What about your **home** life?

Specific Prompts: **12aa)** Who did you live with? Check all that apply

- I lived alone
- I lived with my partner
- I lived with siblings/parents/family
- I lived with friends
- Other (specify) _____

12ab) How many people worked legally in your family at that time?

- None
- Only me
- Only my partner
- Both my partner and I
- Siblings or parents
- Other relatives

12ac) Did you have people depending on you for basic needs?

- Yes
- No

12ad) How many people depended on you? _____
12ae) How many of these dependents are children? _____

12af) Were you financially responsible for the people you lived with?

- Yes
- No

12ag) [If no] Who was financially responsible?
_____

12b) What was your **work** life like?

Specific Prompts: **12ba)** Were you employed at the time that you were arrested for the offence(s) that you're now in prison for?

- Yes
- No

12bb) [if yes] What was your job? _____

12bc) [If yes] What type of job was it?

- Permanent
- Temporary
- Other: _____

12c) What was your **financial** situation?

Specific prompts: **12ca)** How much money were you making during the last year before you went to prison (per month)? _____ Indonesian Rupiah

12cb) Could you afford basic needs (e.g. rent, food)?

- Yes
- No

12cc) Did you have money left over each month to buy luxuries and non-necessities?

- Yes
- No

12cd) [Only if not previously mentioned] Were you in debt?

- Yes
- No

12d) How was your **health** (physically and mentally)?

13) Were you using drugs at the time of the arrest that led to you being in prison?

- Yes
- No

13a) [If yes] In the past, were you ever placed in rehabilitation centres against your will?

- Yes
- No

14) How old were you when you started _____? [interviewer fills the blank with the crime described in questions 6-7] _____

15) How long have you been_____ ? [interviewer fills the blank with the crime described in questions 6-7] _____

16) When were you arrested (year)? ☐☐☐☐

17) What type of drug were you using/selling at the time you were arrested? (Check all that apply

- Heroin
- Amphetamine
- Subutex (buprenorphine)
- Suboxone (buprenorphine + naloxone)
- Methadone
- Ecstasy
- Ketamine
- Codeine
- Benzodiazepine
- Cannabis
- Alcohol
- Other (specify)

18) When you were arrested, was it for your first drug crime?

- Yes
- No

19) Were you ever before been convicted and sentenced for another crime, drug related or not?

- Yes
- No

20) Have you been convicted in the past with the same crime you are currently convicted for?
[If they say that the crime they are now in for is the first, then ask them about that one. If instead they said they have a history of drug crimes, ask them to talk about the **first occasion** of the crime they were convicted for that was serious enough to risk a long prison sentence]
[Only if the person committed more than one drug crime]: "For the next section I would like you to think about the first time you committed a drug crime of the same severity as the one you were convicted for."

[Recruitment and Motivation]
21) How did you first become involved in this crime?

Prompts: **21a)** [only if they were recruited] What was your relationship with the person that recruited you?

21b) [only if they were recruited] How did they recruit you?

21c) [only if they were recruited] What did they tell you about selling or transporting drugs for them?

Specific prompt: **21ca)** Did they tell you about any risks?

21d) [only if they were recruited] How long had you known the person that recruited you?

21e) [only if they were recruited] Why do you think this person thought you would be likely to do it?

22) [Only if they checked Articles involving drug trafficking (Articles 113, 114, 115, 118, 119, 120, 123, 124, 125)] How long did it take for you to decide that you would do it?

23) Why did you choose to use/sell/traffic drugs?

Prompts: **23a)** [only if they were aware of the crime they were committing] What motivated you to commit the crime?

23b) If you were undecided, what were your concerns?

23c) What else was on your mind?

Prompt: **23ca)** [Only if not previously mentioned] When you were thinking of committing the crime, how did it make you feel?

23d) What characteristics of drug crimes make them beneficial?

23e) What characteristics of drug crimes make them risky?

Specific Prompts: **23ea)** Were you offered a reward?

- Yes
- No

23eb) [If yes] Was the reward monetary?

- Yes
- No

23ec) Did anyone threaten you to do it?

- Yes
- No

23ed) Did you do it as a favour for someone?

- Yes
- No

23ee) Were you trying to help someone else?

- Yes
- No

23ef) Did anyone else you knew do it too?

- Yes
- No

24) Did people who care about you know you were going to do this/doing this?

- Yes
- No

Prompt **24a)** [If yes] What did they think about it?

25) Did anyone try to dissuade you?

- Yes
- No

Prompts: **25a)** [If yes] Who tried to dissuade you?

25b) [If yes] What did they do or tell you to dissuade you?

26) [Only if they checked articles that could have warranted a death penalty, or if they were sentenced to death (Articles 113, 114, 116, 118, 119, 121, 132)] Some people worry about the chance of going to prison while deciding whether or not to commit a drug offence. Did you think about that?

- Not at all
- A little
- A lot

27) Some people worry about the chance of being sentenced to death while deciding whether or not to commit a drug offence. Did you think about it?

- Not at all
- A little
- A lot

28) At the time did you know how many people were involved (we do not want to know who these people are, just whether you knew of others' involvement)?

- Yes
- No
- I don't know

Prompt: **28a)** [Only if they checked Article 132] How many people did you think were involved in the criminal activity aside from you (with criminal activity we mean people involved in the production, transportation and sale of the drugs)? [Interviewer will need to remind the prisoner before they respond that they are not interested in any names or details, just an estimate of whether it was a big network of people, or a small number of individuals involved]

29) If you had the chance to do a legal job, what is the lowest amount of money you would accept for a legal job? _____Indonesian Rupiah (per month).

30) [Only if they are sellers] Do you think that your earnings from selling drugs were less than or greater than your earnings from the kind of legal job you could have got?

- Much more
- Somewhat more
- About the same
- Somewhat less
- Much less

31) Do you think that it is easier to find legal work than to find work selling drugs or from other crimes?

- Much easier
- Somewhat easier
- About the same
- Somewhat more difficult
- Much more difficult

32) When you were making the choice as to whether or not to use/sell drugs, how important did you consider these outcomes? (Write the number next to each statement)

(1) Not important at all
(2) Somewhat unimportant
(3) Neither important nor unimportant
(4) Somewhat important
(5) Very important
(9) Not applicable

a) I would be suspended from my job
b) I would lose respect from my close friends
c) I would lose respect from my family members
d) I would lose respect from important neighbours or other adults
e) I would lose respect from my girlfriend/boyfriend/spouse/partner
f) It would make it harder to find a job in the future
g) It would make it harder for me to live in places where I want to live

33) When you were making the choice as to whether or not to use/sell drugs, how much did you agree or disagree with the following statements about how your close friends or family might react to it?

(1) Strongly disagree
(2) Somewhat disagree
(3) Neither agree nor disagree
(4) Somewhat agree
(4) Strongly agree

a) If I sell drugs, my friends and family will respect me more
b) If I sell drugs, I'll get more respect from people in my neighbourhood
c) If I sell drugs, I'll get more respect from other drug sellers in my neighbourhood
d) If I sell drugs, people will like me more for the clothes, music, or other things that I can get
e) If I sell drugs, I will impress my wife/partner

[Knowledge and Perception]

34) Were you aware of the law about drugs?

- Yes
- No

35) What did you think the penalties for the drug offense you committed were?

36) What did you think would happen if you got caught?

37) Did your knowledge of the law and the punishment affect your behaviour?

- Yes
- No

Prompts: **37a)** Did it make you hesitate with the decision?

- Yes
- No

37b) Did it make you worry about the decision?

- Yes
- No

37c) Did it affect the way you went about committing the crime?

- Yes
- No

37d) Did you take precautions not to receive a more severe punishment?

- Yes
- No

Specific Prompts: **37da)** Did you choose not to deal or transport a certain category of drugs?

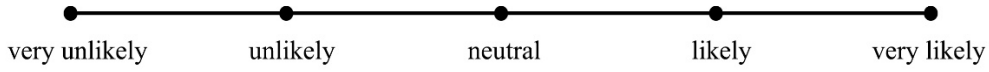
- Yes
- No

37db) Did you keep under a certain amount of drugs?

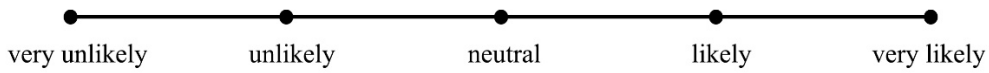
- Yes
- No

37e) Did you think of any other way of minimizing the punishment?

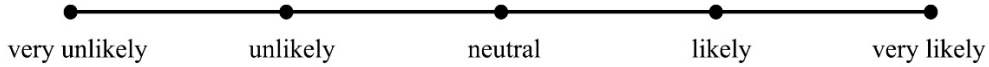
38) At the time when you were making the decision to commit the crime, how likely did you think it was that you would be arrested?



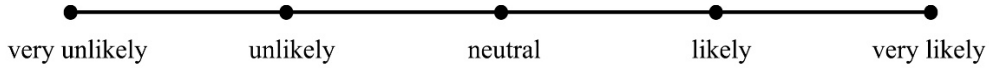
39) At the time when you were making the decision to commit the crime, how likely did you think it was that you would be convicted?



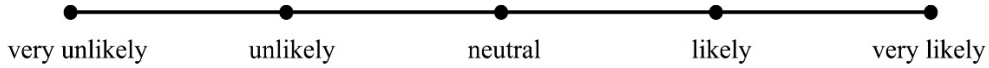
40) At the time when you were making the decision to commit the crime, how likely did you think it was that you would be imprisoned?



41) At the time when you were making the decision to commit the crime, how likely did you think it was that you would be sentenced to death?



42) At the time when you were making the decision to commit the crime, how likely did you think it was that you would be executed?



43) At the time, how many people did you think had been executed in the two years before you committed the offence that you were convicted for?

- Zero
- Between zero and five
- More than five
- I do not know

44) At the time, how many people did you think had been executed in the five years before you committed the offences that you were convicted for?

- Less than five
- Between five and ten
- More than ten
- I do not know

45) At the time, did you know on average how many people are executed each year since 2010?

- One or less
- Between two and five
- More than five
- I do not know

46) At the time, how many people did you think had been sentenced to death two years before you committed the offence that you were convicted for?

- Less than 20
- Between 20 and 60
- More than 60
- I do not know

47) At the time, did you know on average how many people are sentenced to death each year since 2010?

- Less than ten
- Between ten and 30
- More than 30

- I do not know

48) Some people worry about going to prison or being sentenced to death in the period of time when they are committing the crime. Did you think about it?

- Not at all
- A little
- A lot

49) Would you have behaved differently if you had known that the maximum penalty for all drug offences was life in prison instead of the death penalty?

- Not likely at all
- Somewhat likely
- Very likely

In this last set of questions, we would like to ask you what happened right after you were caught.

[Procedural Safeguards]

50) What happened after you were arrested for the crime you are currently convicted for?

Prompts: **50a)** When arrested and detained by the police, suspects have certain rights to assistance and support. Can you tell me if you were given these rights when you were arrested?

- The right to contact family
- The right to contact a lawyer
- The right to access health services
- The right to get methadone/suboxone if needed
- The right to not be interrogated when sick

51) How did the police treat you during the interrogation?

Prompt: **51a)** Did any of these things happen after your arrest?

	Yes	No	Not Applicable
I/My family was asked to pay a bribe to secure my release			
I/My family was asked to pay a bribe to secure a reduced charge/sentence			
I was called names, yelled at and/or insulted by law enforcement officers			
I was denied water			
I was denied medical attention			
I was restrained by police in handcuffs or other physical restraints			
I was physically hurt by law enforcement officials (e.g. dragged, slapped, hit, electrocuted)			
I was subjected to a sexual assault by law enforcement officials			

I was asked to participate in sexual acts by law enforcement officials			
Other (please specify) _____			

52) Did you have a lawyer after your arrest?
- Yes
- No

53) How did you get a lawyer? (Check all that apply)
- It was provided to me by the state
- I hired profit lawyers
- I hired pro-bono lawyers (LBH)

Prompt: **53a)** How soon after your arrest were you allowed to contact or retain a lawyer (how many hours or days)? _____

53b) Was your lawyer present at every stage of the legal process?
- Yes
- No

53c) Were you given enough time to talk with your lawyer?
- Yes
- No

53d) Were you able to talk with your lawyer in private (so other people couldn't hear you)?
- Yes
- No

54) [Only if the person's first language isn't Bahasa Indonesia] Were you given an interpreter?
- Yes
- No

Prompts: **54a)** Was the interpreter there during the interrogation?
- Yes
- No

54b) Was the interpreter there during the entire trial?
- Yes
- No

55) [Only for foreign nationals] Was the embassy of your home country notified of your case?
- Yes
- No
- I don't know

Thank you so much for participating in our study. Your answers have been very helpful.
Interviewer gives compensation and stops recording
*Interviewer records admin information:

Participant Id: _____
City/Municipality and Province: _____
Prison: _____
Name of interviewer: _____

*All hard copies are to be stored in a waterproof wallet, and along with all the other materials they are transported back to the department in a padlocked backpack.
Once back to the department, the interviewer logs the recording session onto the password protected hard-drive and names file [CODE IDENTIFIER], then erases audio file from the recorder. The interviewer scans the hard copies of informed consent and audio-recording form, downloads them on a password-protected and encrypted computer, and shreds the hard copies.
The interviewer also needs to update the excel spreadsheet with the sessions of the day, inputting code identifier, whether or not the person consented to the interview, whether or not the person consented to being audio-recorded, and add a note on whether they consented to being quoted word-for-word in anonymised excerpts*.

Additional notes:
If a participant appears to be severely distressed, the session is to be interrupted immediately and the interviewer should de-escalate the situation.
Interviewer: "I can see that this is very upsetting for you. Thank you so much for being so open with us and helping with our study. We have gathered enough data, so there is no need to continue." *Proceed to compensation*
If a participant appears to be moderately distressed, momentarily interrupt the session.
Interviewer: "I can see that this is upsetting you a bit. If you wish, we can take a break, or we can stop the session altogether. We appreciate your participation, but it is your choice whether we continue, or take some time before we resume."

Appendix B

Risks and Benefits of Drug Trafficking: A Study of Prisoners' Motivations for Offending

PARTICIPANT INFORMATION SHEET

Central University Research Ethics Committee (CUREC) Approval Reference: **R74247/RE001**

1. *Why is this research being conducted?*

The purpose of this study is to understand why people commit drug crimes. We want to learn about their personal situations, thoughts and knowledge of the law at the time when they were thinking about committing a crime. Then, we want to find out whether they thought they would be caught and punished.

2. *Why have I been invited to take part?*

You have been invited to join this study because you have been convicted and sentenced for a drug crime and we would like you ask you about the decisions you made about committing an offence.

3. *Do I have to take part?*

No, you do not have to take part in this study. You can ask questions about the research before deciding whether you want to take part or not. There will be no negative consequences if you don't. Even if you say yes now, you can always change your mind later and you do not have to give a reason. Nothing bad will happen to you if you don't want to participate.

4. *What will happen to me if I take part in the research?*

If you are happy to take part, we will ask you to sign a consent form or say that you consent. If you choose to participate in this research, you will be asked some questions by an interviewer. These questions will be about: your personal situation when you were thinking about committing a crime, what things influenced your decisions, your knowledge of the law and whether or not you thought you might be caught and punished, what happened after you were arrested, and we will ask a few simple questions about you, such as what schooling you have had, what job you did, and whether you have family that depend on you. This interview should take about one hour and we can take breaks at any point you want.

We would also like to record the interview on a digital recorder. This way, we can make sure we understand every word and nothing gets lost. If you do not want to be audio-recorded, we will take handwritten notes. Only our research team, of about ten people, from Atma Jaya University and the University of Oxford will be able to hear what you have said in the interview. Everything you say will be anonymised. That means we will delete any information that could help people to identify you and your name will not be on any records of the interview data. We may want to print in our reports things that you say, what we call quotations from the interview. If so, we will never write your name or anything about your case that would identify you.

We will keep the audio recording of the interview in a computer protected by a password and kept safe.

We plan to publish the results of this research in reports and publications, as well as in a student thesis. If you change your mind in the future and you do not want us to use the data from your interview, you can let us know before June 1st, 2022, by emailing the address at the top of this form.

5. *Are there any potential risks in taking part?*

Everything that you say will only be shared within our research group. However, to avoid the risk that you could say something that could put yourself or other people in trouble, we ask you not to say anything that could be used against you by the courts or by other people. If you need to talk about the crime or other people, only say what has already been covered during the trial. Do not mention people or other crimes you or others may have committed, that are not known to the police or courts, as that could get you or others in trouble.

To reduce any COVID-19 associated risks, the interviewer will wear a mask and sit at least two meters away from you at all times. If you do not have a mask, we will give you one. The interviewer will sanitize the pen used for signing any documents before giving it to you. If it will not be possible to do in-person interviews, they will be conducted through a computer.

6. *Are there any benefits in taking part?*

There will be no personal benefits to you from joining this study. The information you give us will not be used by lawyers representing you. No one in the criminal justice system will read the information you give. However, your interview will help us to understand the many things that might cause someone to commit a crime and what things might persuade them not to and this is very important for research that might help people like you in the future.

7. *Expenses and payments*

If the prison authorities allow it, we will give you refreshments during the interview and some cigarettes to thank you for your participation.

8. *What happens to the data provided?*

The information we collect during the interview is called research data. However, if you agree to the interview being recorded on a digital recorder, it becomes 'personal data' because your voice is in it. To make sure that the recording is kept safe, we will transcribe the interview onto a computer protected by a password. Also, we are going to delete all information that could lead someone to be able to identify you, so that no one will know you have talked to us or what you have said. We will destroy all personal data three years after the final publication. During these three years they will kept safely at the University of Oxford.

The data will only be shared within the research team at Atma Jaya University and at the University of Oxford. Some responsible members of the University of Oxford may need to look at the data to make sure the research is going well and we are being careful and safe with the information you give us.

The consent form will be kept for at least three years after the publication of the research.

9. *Will the research be published?*

The data from this research will be used in reports and publications like journal articles and a book. The results of this research may also be published through reports written by the team and published by a charity we work with.

The University of Oxford has an online archive of research materials, including student theses, which is open to everyone for free. This research will be written up as student's thesis. Once the student will submit the thesis, it will be kept in print and online in this archive.

10. Who is funding the research?

The research is funded by the Economic and Social Research Council (ESRC). They are the UK's largest organization for funding research on economic and social issues. They support independent, high quality research which has an impact on business, the public sector and society.

11. Who has reviewed this study?

This study has been reviewed and approved by the University of Oxford Central University Research Ethics Committee (Reference number: xxx).

12. Who do I contact if I have a concern about the study or I wish to complain?

If you are worried about any part of this study, please contact Lucrezia Rizzelli, lucrezia.rizzelli@crim.ox.ac.uk, or Professor Carolyn Hoyle, carolyn.hoyle@crim.ox.ac.uk, and we will do our best to answer your question. We will respond in 10 working days and let you know how we will deal with whatever worries you. If you are still not happy or want to make a formal complaint, you can contact the Chair of the Research Ethics Committee at the University of Oxford, who will try to solve the issue as soon as possible:
Chair, **Social Sciences & Humanities Inter-Divisional Research Ethics Committee**;
Email: ethics@socsci.ox.ac.uk;
Address: Research Services, University of Oxford, Wellington Square, Oxford OX1 2JD

13. Data Protection

The University of Oxford is the data controller when it comes to your personal data. This means that it decides how your personal data is used in the study. The University will look after your personal data as described above. Research is done in the public interest.

14. Further Information and Contact Details

If you would like to discuss the research with someone beforehand (or if you have questions afterwards), please contact:

Lucrezia Rizzelli
Centre for Criminology
University of Oxford
St Cross Building
St Cross Road
Oxford
OX1 3UL
Tel: 01865 274444
University email: lucrezia.rizzelli@crim.ox.ac.uk

Appendix C

PARTICIPANT CONSENT FORM

Central University Research Ethics Committee (CUREC) Approval Reference:
R74247/RE001

Risks and Benefits of Drug Trafficking: A Study of Prisoners' Motivations for Offending

The purpose of this study is to understand why people commit drug crimes. We want to learn about their personal situations, thoughts and knowledge of the law at the time when they were thinking about committing a crime. Then, we want to find out whether they thought they would be caught and punished.

Please write your initials each box

1	I have read and understand the information sheet for the study. I was given time to think about the information, ask questions and receive answers.	☐
2	I understand that my participation is voluntary and that I am free to stop the interview and leave, without giving any reason, and without any negative consequences. I understand I have until June 1st, 2022 to change my mind about whether or not researchers can use my interview for their study.	☐
3	I understand that this interview will not benefit me or help me with my case in any way.	☐
4	I agree to have authorised people outside of the research team look at the data collected during this interview.	☐
5	I understand that this project has been reviewed by the University of Oxford Central University Research Ethics Committee, which has approved it.	☐
6	I understand who will have access to my personal data, how the data will be stored and what will happen to the data at the end of the project.	☐
7	I understand how this research will be written up and published.	☐
8	I understand how to raise a concern or make a complaint.	☐
9	I consent to being audio recorded.	☐
10	I understand how audio recordings will be used in research outputs.	☐

11	Optional: I agree to the use of quotes in anonymous form.	☐
12	Optional: I do not want to be directly quoted.	☐
13	I agree to take part in the study.	☐

Name of Participant	Date	Signature

Name of person taking consent	Date	Signature

Appendix D

SOCIAL SCIENCES & HUMANITIES INTERDIVISIONAL RESEARCH ETHICS COMMITTEE

Research Services, University of Oxford, Wellington Square, Oxford OX1 2JD
Tel: +44(0)1865 616576 Fax: +44(0)1865 280467
ethics@socsci.ox.ac.uk



23 March 2021

Lucrezia Rizzelli
Centre for Criminology
Faculty of Law
University of Oxford
St Cross Building
St Cross Road
Oxford

Dear Lucrezia

Research Ethics Approval (CUREC 2)
Ref No: R74247/RE001
Title: Risks and Benefits of Drug Trafficking: A Study of Prisoner's Motivations for Offending

The above application has been considered on behalf of the Social Sciences and Humanities Interdivisional Research Ethics Committee (IDREC) in accordance with the procedures laid down by the University for ethical approval of all research involving human participants.

I am pleased to inform you that, on the basis of the information provided to the IDREC, the proposed research has been judged as meeting appropriate ethical standards, and accordingly approval has been granted.

Any data collection involving in-person interactions with participants must have an up-to-date COVID-19 fieldwork risk assessment in place. Please refer to the guidance at https://researchsupport.admin.ox.ac.uk/governance/ethics/coronavirus as the University's position on conducting in-person research may change.

Should there be any subsequent changes to the project that raise ethical issues not covered in the original application you should submit details to the IDREC for consideration: https://researchsupport.admin.ox.ac.uk/governance/ethics/apply/sshidrec#collapse394916.

Please note that your study may be selected for review by the SSH IDREC during an annual audit. You may also be required to submit a brief annual progress report on each anniversary of study approval, until the study is completed.

Yours sincerely,

Jennifer Blaikie
Research Ethics Manager

cc: Professor Carolyn Hoyle
Charlotte Vinnicombe