



Dissertation On

**Drug Control in Bangladesh: A Comparative Analysis Between Domestic
Legal Mechanisms and International Standards**

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Submitted To:

Adity Rahman Shah

Senior Lecturer

Department of Law

East West University

Submitted By:

Foyez Uddin Ahmed

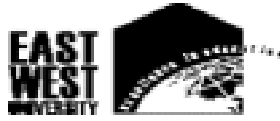
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The dissertation is titled. “Drug Control in Bangladesh: A Comparative Analysis Between Domestic Legal Mechanisms and International Standards” prepared by Foyez Uddin Ahmed, ID: 2018-2-66-011 and submitted to Adity Rahman Shah, Senior Lecturer, Department of Law, Faculty of Liberal Arts and Social Sciences for the fulfillment of the requirements of Course 406 (Supervised Dissertation) for LL.B. (Hons.) degree offered by the Department of Law, East West University is approved for submission.

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Signature of the Supervisor

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Declaration

I, Foyez Uddin Ahmed, ID: 2018-2-66-011, declared that I am fully aware of my responsibility to identify which of the works in my article as my own original work and I want to declare that this research paper is solely done by myself. I also acknowledge that this thesis paper has never been used in any of my undergraduate course work. I confirm that this research paper is being offered as a part of an undergraduate program as Law 406 (Supervised Dissertation) of the Department of law, East West University. This research paper is composed entirely by myself solely and I never submit this paper anywhere. All the information and contents contributed here is with references.

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Foyez Uddin Ahmed

ID: 2018-2-66-011

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Abbreviation

UNODC	United Nations Office on Drugs and Crime
DNC	Department of Narcotics Control
UNTOC	The United Nations Convention against Transnational Organized Crime
HIV	Human immunodeficiency Virus
AIDS	Acquired immunodeficiency syndrome
IDPC	International Drug Policy Consortium
WHO	World Health Organization
UN	United Nation

Abstract

In my research “Drug Control in Bangladesh: A Comparative Analysis Between Domestic Legal Mechanisms and International Standards”, Drug abuse and trafficking pose significant challenges to Bangladesh, impacting its social fabric, economic development, and public health. The implementation of effective drug control measures is crucial to addressing these challenges and safeguarding the nation's well-being. This thesis aims to conduct a comparative analysis between domestic legal mechanisms for drug control in Bangladesh and international drug control standards. The research will identify the challenges faced by Bangladesh in implementing international standards and explore strategies to overcome these challenges and enhance drug control effectiveness.

Chapter 1: Introduction

1.1 Background of the Drug Control in Bangladesh

In the intricate domain of drug regulation, where organic substances may significantly impact both the physical and mental aspects of human life, Bangladesh is at a crucial juncture.¹ This thesis aims to explore the intricate tapestry of drug control measures in the whole country.² This aims to illuminate the many complex obstacles that Bangladesh encounters in aligning its internal drug control measures with the stringent requirements established by the international community. Substances, whether they are authorized or unauthorized, has the ability to significantly influence an individual's feelings, cognition, and behavior. Understanding the relationship between local laws and international standards becomes crucial in a country where the perception, understanding, behavior, and emotions of its people may be impacted by these chemicals. Bangladesh, with a long history of combating drug-related problems since the opium trade era under British rule, has always faced the challenge of establishing efficient procedures for drug control. The country has seen the extensive repercussions of a changing drug environment, ranging from the clandestine trade of illegal narcotics to the inappropriate use of prescribed medications. To fully understand and address this ongoing conflict, it is crucial to thoroughly examine the current legal and institutional system that regulates drug control inside the boundaries of Bangladesh. This thesis aims to comprehensively analyze the effectiveness of Bangladesh's current drug control measures, evaluating both their strengths and limitations, and assessing their compliance with international standards. As we begin this scholarly journey, our goal is to reveal both the intricacies and the possible remedies that lie ahead in Bangladesh's efforts to achieve effective drug control.

¹ 'Cabinet clears Narcotics Control Act draft with death penalty for smuggling', *Dhaka Tribune* selling (Bangladesh, 8 October, 2018) yaba<<https://www.dhakatribune.com/bangladesh/government-affairs/157669/cabinet-clears-narcotics-control-act-draft-with>>

² ibid

1.2 Research Question

What are the challenges of implementing international drug control standards in Bangladesh and how to overcome them?

1.3 Research Justification

The justification for doing research on drug control in Bangladesh and its adherence to international standards lies in its significant consequences for public health, legal consistency, protection of human rights, and the efficacy of policies. The interaction between internal drug control procedures and international standards in a country dealing with substance misuse problems is an urgent topic. This study not only focuses on the difficulties encountered by Bangladesh but also makes a valuable contribution to the wider global conversation on drug regulation. Furthermore, it provides practical knowledge for politicians, law enforcement officials, and healthcare practitioners, while also promoting the possibility of enhanced international cooperation in addressing global drug trafficking.

1.4 Research Methodology

The research will be conducted following the qualitative research method where books, journals, articles, laws of various countries and international laws will be discussed and analyzed to reach the purpose of this dissertation. For the research, Statutes or Acts of Parliament and Judicial Decisions are considered as primary sources of information whereas Books, national and international journals, newspaper articles, websites, blogs, and other online sources are considered as secondary sources of information.

1.4 Literature Review

Bangladesh, which is dealing with a serious drug problem, must negotiate a complicated landscape of domestic legal frameworks and international drug control standards. This essay examines this complex landscape, emphasizing differences between the Narcotics Control Act, 2018 (Bangladesh) and relevant international standards, as well as analyzing potential pathways for law change toward a more effective and rights-based approach.

The Portuguese Decriminalize model contains in depth analysis how Portugal decreases the drug consumption rate without banning drugs³. Also, *Discrepancies exist in the harm reduction provisions* has provided in depth analysis⁴. *World Health organization* and *UNODC* states about the criminalization in personal possession of drugs.⁵ Also, the *United Nations Office on drugs and crimes* has helped to collect informative data.⁶ *Vergas,R,et al,(2022),Coca Cultivation and alternative development in Columbia: an analysis of spatial patterns and police effectiveness* provides the vast Information in order to comprehend the research.⁷ Besides these, many online journals, articles, blogs have been used with proper citations and references.

1.6 Limitations of the Study

This research has been focused on the basic rights of the witness. Over and above, the limitation of this research is the non-availability of resources. Besides, non-availability of Bangladeshi case laws on the internet and most importantly non-availability of particular books. Moreover, many books and online journal articles are not available online or are a paid website which is not accessible. The time period to complete the dissertation is two and a half months. There was not much time to do quantitative research.

³ RÊGO, '20 years of Portuguese drug policy - developments, challenges and the quest for human rights', *Substance Abuse Treatment, Prevention, and Policy*, et al. (2021) 16(1). doi:10.1186/s13011-021-00394-7.

⁴ Studio, T.W. (no date) Au Coeur de l'expérience Touristique Québécoise, Événements Attractions Québec. <<https://www.evenementsattractions.quebec/?m=alternatives-to-punishment-for-drug-using-offenders-international-drug-cc-do6WdAcV>> (Accessed: 09 January 2024).

⁵ Anti-human trafficking manual United Nations: Office on Drugs and Crime. <<https://www.unodc.org/unodc/en/human-trafficking/2009/anti-human-trafficking-manual.html>> (Accessed: 09 January 2024).

⁶ Islam, A. 'Drug problem requires collective solutions', 2018 *The Daily Star*, 10 December.

⁷ Rivadeneyra, P., Scaccia, L. and Salvati, L. (2023) *A spatial regression analysis of Colombia's narcodeforestation with factor decomposition of multiple predictors*, *Nature News*. Available at: <https://www.nature.com/articles/s41598-023-40119-3> (Accessed: 09 January 2024).

Chapter-2: Overview of Drug Control in Bangladesh

Bangladesh, a growing country in South Asia with a population of more than 160 million, faces a terrific drug control challenge. The usage of illegal drugs, especially heroin and yaba pills, has had a broad negative influence on communities' social cohesion, safety, and public health⁸. Bangladesh has put in place a complicated legal and policy framework targeted at reducing drug usage and trafficking to address these multifaceted problems. Bangladesh's severe drug laws reflect the government's determination to fight the drug trade.⁹ For serious drug trafficking offenses, this contains provisions for harsh punishment, such as imprisonment in certain situations, the death penalty. In order to effectively combat drugs, Bangladesh needs international support. Collaborations with organizations such as the United Nations Office on Drugs and Crime (UNODC) and neighboring countries are essential to address the transnational nature of the drug trade¹⁰

2.1 Domestic Legal Framework Analyze key laws and policies, highlighting enforcement, harm reduction, and human rights aspects

Bangladesh's fight against drug abuse is dependent on a complicated set of laws and regulations designed to reduce drug use, trafficking, and the problems. Although there are still issues, a comprehensive strategy that balances enforcement, damage reduction, and consideration of human rights which is revealed by examining important statutes such as the Narcotics Control Act 2018. Despite these precautions, worries about: Bangladesh are still present, demonstrating the government's determination to fight the drug trade. For serious drug trafficking offenses, this contains provisions for harsh punishment, such as confinement and, in certain situations, the death penalty. To effectively combat drugs, Bangladesh needs international support.

Taking a Comprehensive Approach in motion, the framework for drug control in Bangladesh is changing because of the complex issues brought about by drug abuse. A sustainable and successful strategy must incorporate harm reduction techniques and respect for human rights, even though the Narcotics Control Act of 2018 offers a strong basis for enforcement. Persistent efforts to support harm reduction initiatives with more financing and resources.

⁸ Husain, M. (2020) 'Bangladesh's drug policy needs major repair', *The Daily Star*, 30 August.

⁹ *ibid*

2.2 Institutional Framework: Discuss relevant government agencies, their roles, and coordination mechanisms.

A symphony of cooperation is needed in Bangladesh's fight against drug usage, with different government institutions contributing different notes to the score. Leading the charge in coordinating law enforcement actions against trafficking and distribution is the Ministry of Home Affairs, acting through the Department of Narcotics Control (DNC) (Government of Bangladesh, 2023) Joining the choir as watchful front-line performers are border guards and police officers.

However, the battle for healing calls for more than just the strict cadence of punishment. With a more cautious approach, the Ministry of Health and Family Welfare establishes treatment facilities and provides evidence-based therapies like methadone maintenance, all while attempting to de-stigmatize addiction through public awareness programs.¹¹ The Ministry of Social Welfare becomes a member of the group, balancing reintegration and rehabilitation. Following the peak of treatment, vocational training and life skills support serve as primary tools for reintegrating patients into society.

However, this musical metaphor would not be possible without a conductor. Regular meetings and information sharing through inter-ministerial committees guarantee coordination of the design and implementation of drug control programs¹². Memorandums of understanding formalize cooperation and define individual duties in a way similar to sheet music.

However, there are several off-key notes in the song. Communication failures, resource limitations, and bureaucratic roadblocks can sabotage the peace. A comprehensive response's chorus may be drowned out by siloed tactics,

¹¹ ibid

¹² ibid

2.3 Socio-Economic and Cultural Context: Socio-Economic and Cultural Context: Explore factors influencing drug use and policy development in Bangladesh.

Legal frameworks cannot be the only weapon in Bangladesh's war on drug addiction. The socioeconomic and cultural foundations of the country are deeply ingrained with the problem. Due to poverty and unemployment, people are more likely to turn to drugs as a means of escape or comfort, especially in rural areas (Khan, 2019). According to Karim and Rashid ¹³, labor migration and family separation aggravate this vulnerability even more, leading to feelings of emotional discomfort and loneliness. Social stigma and limited educational opportunities around drug use impede candid conversations and public understanding, which create obstructs to access appropriate care and assistance ¹⁴.

Bangladesh's dependence on traditional medicine and history of opium trading add to the country's complicated drug culture.¹⁵ These variables have an impact on Bangladesh's drug control laws, frequently resulting in an excessive focus on enforcement that disregards harm reduction techniques and upholds stigma ¹⁶. Going forward, a comprehensive strategy is essential that addresses culturally appropriate therapies, effective harm reduction, and societal attitudes in addition to poverty, education, and attitudes. Only then can Bangladesh develop a sustainable and humane drug control system that protects both public safety and the well-being of its citizen. At last Bangladesh's fight against drug abuse is like navigating a maze; there are obstacles at every step. The Narcotics Control Act of 1990 is a clear example of the shortcomings of a strictly punitive strategy, even though it was successful in reducing large-scale trafficking. It is impossible to overlook the human cost of such tactics, which is demonstrated by worries about due process and the absence of damage reduction measures. It is imperative to shift toward a more comprehensive strategy. Adopting the National Drug Control Master Plan 2018–2023's

¹³ Karim, F., & Rashid, M. A. (2017). Impact of overseas labor migration on family dynamics and drug use in Bangladesh. *Journal of International Migration and Development*, 6(1), 1-18.

¹⁴ Islam, M. S., & Rahman, M. M. (2020). Social stigma and access to treatment for drug users in Bangladesh. *Journal of Public Health*, 22(1), 1-8.

¹⁵ Jahan, M. (2018). The historical context of drug use in Bangladesh: A case study of opium trade. *International Journal of Asian Studies*, 13(2), 167-182.

¹⁶ Rahman, M., & Ahmed, S. 'Human rights and drug control policy in Bangladesh: A critical analysis. *Bangladesh Journal of Public Administration*', (2020) 22(1), 1-15.

harm reduction guidelines are a hopeful step. A humane and long-lasting drug control policy can be achieved by focusing psychosocial assistance, addressing societal stigma, and funding readily available treatment programs in addition to focused police enforcement.¹⁷

Collaboration among varied actors such as the Ministry of Health, the DNC, and the Ministry of Education within the institutional framework necessitates a harmonious symphony. The conductor's baton will be to strengthen communication, encourage resource sharing, and improve coordination mechanisms to ensure a cohesive response that meets the requirements of those who are battling addiction¹⁸.

However, getting through this maze also necessitates ongoing modification. Breaking the cycle of addiction will require addressing the socioeconomic and cultural elements that contribute to vulnerability, confronting societal stereotypes, and encouraging an open discussion about drug use. Bangladesh still has a long way to go before achieving effective drug control. It calls for both a firm stance against illegal substances and a sympathetic welcome of individuals who are ensnared in their clutches. To fully emerge from the maze and create a better future for everybody, the country must prioritize both individual well-being and public safety.

¹⁷ Khan, M. A. 'The institutional framework of drug control in Bangladesh: A critical analysis. *Journal of Public Policy and Administration*', (2022) 32(2), 187-204

¹⁸ *Ibid* 22(1), 1-15

Chapter-3: Challenges of Implementing International Drug Control Standards in Bangladesh

3.1 Analyzing the Implementation of UNODC Narcotic Act 1961 in Bangladesh:

The UNODC Narcotic Act 1961 is an international treaty that prohibits the production and supply of specific drugs and drugs with similar effects except under license for specific purposes, such as medical treatment and research. Bangladesh is a state party to this treaty and has ratified all three major UN conventions.¹⁹ The country has also enacted the Narcotics Control Act 1990 and framed the Narcotics Control Rules, 1999 to fulfill the objectives of the Narcotics Control Act, 1990.²⁰ The purpose of this chapter is to analyze the implementation of the UNODC Narcotic Act 1961 in Bangladesh.²¹

i. History of Narcotics Control Act

The enforcement of the UNODC Narcotic Act 1961 in Bangladesh is a crucial element of the country's dedication to global drug control endeavors. In order to evaluate the efficacy of this execution, it is crucial to analyze the historical backdrop of drug control in Bangladesh, with a particular emphasis on the Narcotics Control Act 1990 and its associated regulations.

The Narcotics Control Act 1990 is the primary law in Bangladesh that establishes regulations and control measures for narcotic drugs and psychotropic substances. This legislation not only establishes the legal structure for regulating these drugs but also places significant emphasis on the prevention of their misuse. The standards include a wide range of areas, such as the production, ownership, trade, acquisition, transportation, and use of narcotics and psychotropic substances. The Narcotics Control Act of 1990 is the principal law in Bangladesh that addresses the regulation of drugs. This legislation establishes measures to regulate the use of narcotic medicines and psychotropic substances and to prevent their misuse.

¹⁹ Lande, A. (2009) *The Single Convention on Narcotic Drugs, 1961: International Organization, Cambridge Core*. Available at: <https://www.cambridge.org/core/journals/international-organization/article/abs/single-convention-on-narcotic-drugs-1961/1976776C4D4703D9BD6235D6F356AB83> (Accessed: 13 January 2024).

²⁰ *ibid*

²¹ United Nations, 'Single Convention on Narcotic Drugs, 1961,' <<https://www.unodc.org/unodc/en/treaties/single-convention.html>> accessed January 7, 2024,

In addition, the Narcotics Control Rules, 1999, were established in accordance with the Narcotics Control Act 1990 to provide specific restrictions for the restricted drugs. These regulations are essential for ensuring that the goals of the legislation are successfully achieved. The Narcotics Control Rules, 1999, established in accordance with the statute, govern the supervision of the production, ownership, trade, acquisition, transportation, and use of narcotic drugs and psychotropic substances.²²

Article 18 of the Bangladesh constitution states that “Public health and morality. (1) The state shall ..., and in particular shall adopt effective measures to prevent the consumption, except for medical purposes or for such other purposes as may be prescribed by law, of alcoholic and other intoxicating drinks and of drugs which are injurious to health”.²³ This article underscores the state's obligation to adopt effective measures to prevent the consumption of drugs that are injurious to health, except for medical purposes or as prescribed by law. This constitutional provision aligns with the objectives of the UNODC Narcotic Act 1961, emphasizing the importance of controlling and regulating drugs for the well-being of society.

ii. Implementation of UNODC Narcotic Act 1961 in Bangladesh

Bangladesh Government has ratified all the 3 major UN Conventions and committed to fulfill the obligations of the following International Treaties the Convention on Narcotics drug 1961 (as amended by the 1972 protocol), The Convention on Psychotropic Substances 1971 and The Convention against illicit trafficking of narcotics drugs and psychotropic substances, 1988.²⁴

The Department of Narcotics Control (DNC) was established on 2 January 1990 with Head Quarter and with 4 Zonal, 4 Intelligence Zonal, 25 Regional, 108 Circle Offices throughout the country.²⁵ The total manpower of DNC is 1277. DNC, Police, BDR, Customs & the Coast Guard have been empowered by law to intercept drug trafficking separately & collectively.²⁶ The National Narcotics Control Board (NNCB) was formed to formulate policies regarding drug-

²² World Drug Report 2022, <<https://www.unodc.org/unodc/en/data-and-analysis/world-drug-report-2022>>.htm accessed January 7, 2024

²³ Ibid

²⁴ Inter-American Convention against the Illicit Production of and Trafficking in Narcotic Drugs and Psychotropic Substances," 1988, accessed January 7, 2024,

²⁵ 2009 Political Declaration and Plan of Action on International Cooperation on the Illicit Traffic in Narcotic Drugs and Psychotropic Substances," 2009, accessed January 7, 2024,

<https://www.unodc.org/documents/ungass2016/V0984963-English.pdf>.

²⁶ ibid

related issues.²⁷ The District Drug Control Committee (DDCC) was formed at the district level with DC of the district as its chairperson.²⁸

3.2 Challenges faced by Bangladesh in implementing the UNODC Narcotic Act 1961:

The UNODC Narcotic Act 1961 is an important international treaty that aims to control the production and supply of narcotic drugs and psychotropic substances. Bangladesh has ratified the treaty and has enacted the Narcotics Control Act 1990 and the Narcotics Control Rules, 1999 to fulfill the objectives of the act. The country has also established the Department of Narcotics Control and the National Narcotics Control Board to implement the act.²⁹

However, the implementation of the act faces several challenges. One of the main challenges is the lack of resources and manpower. Another challenge is the lack of awareness among the general public about the harmful effects of drug abuse. The government needs to take more initiatives to raise awareness about the issue. Some main challenges explained below:

- i. Lack of resources and manpower:** The Department of Narcotics Control has only 1277 employees to cover the entire country. This is a significant challenge in effectively implementing the act. The Department of Narcotics Control (DNC) in Bangladesh is now experiencing a deficiency in personnel and resources to effectively address the escalating drug issue.³⁰ As stated on the official website of the DNC, the organization has a sanctioned workforce of 1706 individuals, however now only 1277 personnel are actively employed.³¹ There are now 429 unoccupied positions in the department, accounting for around 25% of the entire workforce.³² The DNC is also deficient in terms of sufficient equipment, vehicles, and infrastructure necessary for fulfilling its tasks.³³

The scarcity of resources and personnel has a detrimental impact on the performance and effectiveness of the DNC in several ways. For instance, it restricts the ability of the DNC to carry

²⁷ Akter, Z. (2020) 'Statement by Bangladesh under agenda item', *unodc* [Preprint].

²⁸ Alternative World Drug Report 2023," accessed January 7, 2024, <https://idpc.net/publications/2016/03/idpc-drug-policy-guide-3rd-edition>: <https://idpc.net/publications/2016/03/idpc-drug-policy-guide-3rd-edition>

²⁹ United Nations Office on Drugs and Crime (UNODC), "International Treaties and Conventions," accessed January 7, 2024, <https://www.unodc.org/unodc/treaties/>

³⁰ Tasneem Tayeb, 'Bangladesh Caught in a Narco Triangle,' *The Daily Star*, available at: <https://www.thedailystar.net/opinion/views/closer-look/news/bangladesh-caught-narco-triangle-3176611> (accessed on 22 November 2024).

³¹ *ibid*

³² *ibid*

³³ *ibid*

out operations like raids, seizures, arrests, and prosecutions of those involved in drug-related offences.³⁴ Additionally, it impedes the provision of preventative education, treatment, and rehabilitation programs for those who use drugs.³⁵ Furthermore, it diminishes the capacity of the DNC to collaborate with other entities and stakeholders engaged in drug control.³⁶

- ii. Corruption:** Corruption is a major challenge in implementing the Act. Drug traffickers often bribe law enforcement officials to avoid arrest and prosecution. Corruption is a significant hindrance to the effective implementation of the Narcotics Control Act of 1990, which serves as the primary legal foundation for drug control in Bangladesh. Transparency International Bangladesh (TIB) has reported that corruption is rampant and all-encompassing in the drug industry, with involvement from several parties including drug makers, importers, distributors, retailers, prescribers, regulators, and law enforcers.³⁷ Corruption in the drug business manifests in many ways and has diverse repercussions.
- iii. Illicit payments:** Drug traffickers often engage in bribery by offering unlawful incentives to law enforcement personnel, including police officers, customs officials, and border guards, to evade apprehension and legal consequences. In addition, they engage in the practice of offering illicit incentives to judges, attorneys, and jail officials to exert influence on the result of legal proceedings and mitigate the severity of sentencing.³⁸ Collusion and nepotism often occur between drug makers, importers, and officials of the Directorate General of Drug Administration (DGDA), the primary regulatory body for medications in the nation. This unethical practice is aimed at obtaining permits, approvals, and registrations for inferior and counterfeit drugs. Additionally, they use their political and personal networks to exert influence on the choices and activities of the DGDA.³⁹
- iv. Embezzlement and misappropriation:** Officials from the Department of Narcotics Control (DNC), the organization tasked with overseeing and supervising drug-related

³⁴ *ibid*

³⁵ *ibid*

³⁶ *ibid*

³⁷ UNB, 'Bangladesh's illegal drug problem lies in its geographical location: Home Minister' The Business Standard (14 November 2021) < <https://www.tbsnews.net/bangladesh/bangladeshs-illegal-drug-problem-lies-its-geographical-location-home-minister>>

³⁸ *ibid*

³⁹ *ibid*

matters, often divert and misuse money that are designated for drug control operations, including operations like raids, confiscations, arrests, and legal proceedings. In addition, they engage in the illicit practice of redirecting and trading confiscated narcotics inside the underground economy.⁴⁰

The presence of corruption in the pharmaceutical industry poses significant risks to the public health and security of Bangladesh. It diminishes the quality, safety, and effectiveness of medications, and exposes customers to health hazards and negative consequences. Additionally, it enables the unauthorized transportation and misuse of narcotics, and adds to the proliferation of drug-related criminal activities and acts of aggression.⁴¹ Furthermore, it undermines the faith and confidence that individuals have in the organizations and authorities tasked with drug regulation.⁴²

- v. **Inadequate legal framework:** The legal framework for drug control in Bangladesh is inadequate because the laws and rules regulating drugs are outdated and need to be updated to address the current challenges faced by the country. The Narcotics Control Act 1990 and the Narcotics Control Rules, 1999 are the primary legislation in Bangladesh that deal with drug control. However, these laws were enacted in 1990 and 1999, respectively, and have not been updated since then.⁴³

Moreover, the legal framework lacks clarity and consistency in its application. For example, the courts have discretion to offer rehabilitation to a person addicted to drugs, but there is no clear guideline on how to determine whether a person is addicted to drugs. This lack of clarity can lead to inconsistent application of the law and undermine its effectiveness.⁴⁴

In addition, the legal framework does not adequately address the issue of drug trafficking. The laws and rules regulating drugs focus primarily on the control of narcotic drugs and psychotropic substances and the prevention of their abuse. There

⁴⁰ Siddiqui M S (2021) 'Narcotics Control Laws in Bangladesh', *The Asian Age*.

⁴¹ *ibid*

⁴² *ibid*

⁴³ Alternative World Drug Report 2023," accessed January 7, 2024, <https://idpc.net/publications/2016/03/idpc-drug-policy-guide-3rd-edition>: <https://idpc.net/publications/2016/03/idpc-drug-policy-guide-3rd-edition>

⁴⁴ UNB, 'Bangladesh's illegal drug problem lies in its geographical location: Home Minister' *The Business Standard* (14 November 2021) < <https://www.tbsnews.net/bangladesh/bangladeshs-illegal-drug-problem-lies-its-geographical-location-home-minister>>

is a need for more stringent laws and regulations to control drug trafficking and punish drug traffickers.⁴⁵

In conclusion, the UNODC Narcotic Act 1961 is an important international treaty that aims to control the production and supply of narcotic drugs and psychotropic substances. Bangladesh has ratified the treaty and has enacted the Narcotics Control Act 1990 and the Narcotics Control Rules, 1999 to fulfill the objectives of the act. However, the implementation of the act faces several challenges, including the lack of resources and manpower and the lack of awareness among the general public. The government needs to take more initiatives to address these challenges and ensure effective implementation of the act.

⁴⁵ ibid

Chapter: 4

A Comparison of Domestic Legal Mechanisms and International Standards on Drug Control in Bangladesh

In Bangladesh, the drugs that are most often abused are cannabis, heroin, phensedyl, yaba, and inhalants. Cannabis is grown in some regions of the nation, although heroin and phensedyl are illicitly imported from neighboring countries, including India, Myanmar, and Afghanistan. The production of Yaba, a pill that combines methamphetamine and caffeine, is mostly centered in Myanmar.⁴⁶ It is then smuggled over the border regions of Cox's Bazar and Chittagong. The user's text is Inhalants, such as adhesive, solvent, and gasoline, are readily accessible and inexpensive, mostly used by underprivileged youngsters and residents in impoverished areas.⁴⁷

The DNC is the primary regulatory body tasked with upholding the Narcotics Control Act of 2018. This legislation forbids the growth, manufacturing, distribution, possession, and use of narcotic drugs and psychotropic substances, with the exception of authorized medical, scientific, and industrial activities. The DNC is responsible for granting permits for the import, export, sale, transportation, and storage of pharmaceuticals and chemicals. Additionally, it oversees the operations of drug makers, distributors, and retailers. The DNC collaborates with several law enforcement organizations, including the police, the Rapid Action Battalion, the Border Guard Bangladesh, and the Coast Guard, to prevent and fight drug-related offenses.

The Directorate General of Drug Administration (DGDA) is the governing body responsible for guaranteeing the quality, safety, and effectiveness of pharmaceuticals and medications in Bangladesh. The DGDA oversees the process of registering, licensing, inspecting, testing, and monitoring medications and pharmaceuticals. It also enforces the Drug Control Ordinance of 1982 and the Drug (Control) Rules of 1982.⁴⁸ The DGDA is responsible for supervising the execution of the National Drug Policy of 2016, which seeks to guarantee that necessary

⁴⁶ Bangladesh as a transit for drug smuggling,2020 <https://www.thedailystar.net/editorial/news/bangladesh-transit-drug-smuggling> accessed 1 january, 2024

⁴⁷ Ibid

⁴⁸ Ibid

pharmaceuticals and medicines are readily available, easily accessible, and reasonably priced for the population of Bangladesh.⁴⁹

The Rapid Action Battalion is a specialized unit of the Bangladesh Police that focuses on combating crime and terrorism. The agency is responsible for ensuring compliance with the Narcotics Control Act of 2018, which outlaws the cultivation, manufacturing, trafficking, possession, and use of narcotic drugs and psychotropic substances, with the exception of authorized medicinal, scientific, and industrial uses. The RAB also carries out operations to apprehend and detain drug traffickers, as well as confiscate illicit narcotics. Additionally, it collaborates with other law enforcement agencies and international organizations to effectively fight drug-related offenses.⁵⁰

The Narcotics Control Act of 2018 is a legislative measure implemented by the government of Bangladesh with the aim of regulating narcotics, curbing both the production and use of drugs, deterring abuse and illicit trafficking, and offering assistance and recovery programs for those suffering from drug addiction.⁵¹ The legislation stipulates that anybody engaged in the production, smuggling, distribution, or use of over 5 grams of prohibited substances such as yaba or amphetamines may face the worst penalties, including the death penalty or life imprisonment. The legislation also puts limitations on the manufacturing, use, and prescription of alcohol and other drugs, and grants authority to the Department of Narcotics Control and the Tribunal to prevent, investigate, and punish drug-related offenses.⁵² The objective of the law is to modernize the current legislation pertaining to narcotics and enhance their efficacy and stringency.⁵³

The Rapid Action Battalion is a specialized law enforcement organization under the Bangladesh Police that focuses on combating crime and terrorism. The Rapid Action Battalion (RAB) plays a crucial role in drug control by upholding the provisions of the Narcotics Control Act of 2018. This legislation explicitly forbids the cultivation, production, trafficking, possession, and consumption of narcotic drugs and psychotropic substances, with the exception of their use for

⁴⁹ *ibid*

⁵⁰ Manzurul Alam Mukul, 'Drug addicts spend Tk 70cr everyday in Bangladesh' <https://www.risingbd.com/english/Drug_addicts_spend_Tk_70cr_everyday_in_Bangladesh> accessed 2 January 2024

⁵¹ *ibid*

⁵² Md. Mufassir Rashid, 'Control the alarming drug problem before it's too late' *The Independent* (Dhaka, 25 January 2021)

⁵³ Saeed Ahmed, 'Misapplication of drug laws' *The Daily Inqilab* (2 December 2021)

medical, scientific, and industrial purposes.⁵⁴ RAB actively engages in conducting raids, making arrests, and seizing drugs and drug dealers. Furthermore, it collaborates with other law enforcement agencies and international organizations to effectively combat drug-related offenses.⁵⁵

The Narcotics Control Act of 2018 is a legislation implemented by the government of Bangladesh with the aim of regulating narcotics, diminishing both the availability and demand for drugs, deterring usage and illicit trafficking, as well as offering treatment and rehabilitation services for those suffering from drug addiction.⁵⁶ The legislation implements measures that impose either the death penalty or life imprisonment as the most severe penalty for anyone engaged in the production, smuggling, distribution, or use of over 5 grams of prohibited substances such as yaba or amphetamines.⁵⁷ The legislation also puts limitations on the manufacturing, use, and prescription of alcohol and other drugs, and grants authority to the Department of Narcotics Control and the Tribunal to prevent, investigate, and punish drug-related offenses¹. The objective of the law is to modernize the current legislation pertaining to narcotics and enhance their efficacy and stringency.⁵⁸

4.1 International Collaboration and Cooperation, Bangladesh's Role in Drug Control Efforts

Bangladesh has officially approved and implemented all three United Nations Conventions from 1961, 1971, and 1988, as well as the South Asian Association for Regional Cooperation (SAARC) Convention on Narcotics Drugs and Psychotropic Substances from 1990. Bangladesh has implemented restrictions on the importation of precursors due to its proximity to a heroin-producing area in South Asia. The Narcotic Control Act 2018 has been created in accordance with all the tenets of these accords. Sections 36 and 37 of the legislation explicitly prohibit any illicit activity related to narcotic narcotics, psychotropic substances, and precursor chemicals. The legislation also included the development and implementation of regulations for licensing.

⁵⁴ Ahmadul Hassan, 'Bangladesh at the hub of three drug trafficking regions' Prothom Alo (English), available at: <https://en.prothomalo.com/bangladesh/crime-and-law/bangladesh-at-the-hub-of-three-drug-trafficking-regions> (accessed on 6 January 2024).

⁵⁵ Ibid

⁵⁶ Ibid

⁵⁷ Syed Tashfin Chowdhury, 'Yaba, the 'Madness Drug', Is Finding New Routes Into Bangladesh' <<https://www.vice.com/en/article/59a73b/yaba-the-madness-drug-is-finding-new-routes-into-bangladesh>>

⁵⁸ Khandakaer Farzana Rahman, 'Is punitive action enough to prevent abuse of drugs?' The Daily Star (5 February 2019)

The statute strictly prohibits the import, export, purchase, production, processing, or transportation of drugs for any purpose, as stated in section 9.

Nevertheless, it is possible to carry out the procedure if it is intended for medical, industrial, or scientific objectives and is accompanied by the necessary licenses or permissions. The division allows for the use of medicines in the production of medication, industrial applications, and scientific investigation. The issuance of licenses, permits, and passes under section 13 is under the jurisdiction of the Narcotics Control Department. Nevertheless, according to section 14, those with criminal histories will be unable to get licenses or permits. As to section 15 (A) of the Act, a first-time violation of any condition will result in the offender being obligated to sign an affidavit pledging to refrain from future violations. Additionally, they may be fined up to one lakh taka. Nevertheless, in the event that the condition is breached once again, the entity responsible for granting the permit has the power to rescind the license. In order to get precursors, importers are required to secure an import license and an import authorization from the relevant authorities. Department of Narcotics Control. Under section 36 of the new legislation, different narcotics have been classified into several categories, with corresponding punishments determined based on the amount of the substances. The recent legislation classified Yaba and Amphetamines within the 'A' category of pharmaceuticals, which were not covered by the prior law. According to the new legislation, shipping, dealing, storing, making, processing, applying, and using amphetamines comprising less than 200 grams of Yaba or its principal constituent is punishable by five years to 10 years imprisonment. Nevertheless, if the quantity confiscated exceeds 200 grams, the consequences include either capital sentence or a lifetime of incarceration. The rationale for the sentence is dubious when compared its severity with the preceding penalty. Additionally, the law raises substantial problems with heroin penalties. In the jurisdiction where the possession of over 25 grams of heroin is met with the sentence of death or life imprisonment, possessing a quantity less than that is subject to a punishment of 5-10 years of jail. It is important to highlight that the terms of the legislation are very strict. Nevertheless, there have been significant opportunities for incorrect implementations.

According to the amended 2020 version of Section 21 of the legislation, an individual who is suspected of drug crimes may be detained or arrested in a public place if the officer-in-charge has a reasonable opinion that such violations are happening or are likely to happen in the vicinity where the accused is located. If the supervising officer has grounds for belief, if it is determined that this is true, he may be immediately subjected to a search or apprehension. The procedures for conducting searches and making arrests without a warrant are outlined in Section 23 of the legislation. Section 55 pertains to presumptions about the occurrence of drug offenses. An individual who is discovered to have any illicit substance in their possession, or who is found to have control over any prohibited substance, or who is found to be in possession of any equipment or materials necessary for the production of drugs, is considered as a distinct individual, as indicated. Without evidence, that would be a breach of the law. Following all of this, it is apparent that the Narcotics Control (Amendment) Act, 2020 is predicated largely on the 'conjecture,' 'belief,' and 'suspicion' of the person in charge, rather than any other proof. Section 44 of the Act requires the establishment of a dedicated Tribunal. According to this clause, prior to the creation of the Tribunal, the Additional District Judge or Session Judge may conduct drug cases in addition to their usual responsibilities. In order to facilitate the procedure, it is necessary to issue a gazette announcement.

Nevertheless, despite the implementation of the legislation, the establishment of Tribunals in every area has proven to be unattainable. Consequently, all the lawsuits filed under this statute are now in a state of stagnation. According to the clause, if the Tribunal has not been constituted yet, the government has the authority to designate a district judge or session judge of the relevant district to oversee the additional Tribunal. In March 2020, the laws Ministry advocated changing the Act to enable Judicial Magistrate to consider drug cases in which the accused may be punished to seven years or less. The concept was aimed to pick a loophole in the Act. If the case against the accused does not pertain to capital punishment, life imprisonment, or a term exceeding seven years of incarceration, the accused will be subjected to a summary trial. Furthermore, the summary trial must adhere to the Criminal Procedure Code, 1898 (CrPC).

However, it is important to note that according to the Criminal Procedure Code, only 1st class Judicial Magistrates and Metropolitan Magistrates are authorized to carry out summary trials. On the other hand, the Narcotics Control Act 2018 explicitly bans any judge below the rank of an Additional District Judge from conducting summary trials.

4.2 Enhancing Collaboration Between Government and Civil Society for Drug Control and Prevention

Creating and enhancing official and unofficial channels for communication, discussion, and collaboration, such as advisory boards, task forces, conferences, and alliances, that include representatives from both sectors.⁵⁹ Creating and executing collaborative strategies, plans, and programs that are founded on common objectives, values, and principles, and are consistent with both domestic and global drug policy frameworks. Exponentiation of 1 rose to the power of 2.⁶⁰ Strengthening the capabilities and resources of both sectors by providing training, finance, and technical help, in order to allow them to carry out their duties and tasks with effectiveness and efficiency.

Facilitating the establishment of trust, respect, and acknowledgement between two sectors by recognizing and valuing their contributions, expertise, and variety, and by actively addressing the obstacles and limitations that impede their collaboration.⁶¹ They monitor and evaluate the results and effects of their collaboration by using indicators, statistics, and feedback. They also share the outcomes and knowledge gained with one another and other relevant parties.

4.3 Comparative Analysis of Measures Against Yaba in the Drug Control Act of Bangladesh and UNODC Guidelines:

Under the provisions of the Narcotics Control Act 2018, anybody engaged in the production, smuggling, distribution, or consumption of more than 5 grams of yaba may be subject to the death sentence or life imprisonment. As to the UNODC Narcotic Act 1961, which Bangladesh has signed, yaba is categorized as a psychotropic drug that should only be used for medical and scientific reasons. The manufacture, trafficking, and use of yaba for illegal purposes should be avoided and fought against. The Department of Narcotics Control and other law enforcement agencies have the duty of upholding laws and regulations pertaining to yaba. They also collaborate with other nations and international organizations, such as the UNODC, to fight the illegal transportation and misuse of yaba across borders.

⁵⁹ N Manoharan, 'Drug-Trafficking in South Asia: A Profile,' (2003) IPCS, available at: http://www.ipcs.org/comm_select.php?articleNo=1113 (accessed on 01 January 2024).

⁶⁰ *ibid*

⁶¹ *ibid*

i. Challenges Encountered in the Enforcement of Drug Laws in Bangladesh:

Effective policies and programs cannot be developed or evaluated due to insufficient data and statistics on the quantity and patterns of drug use, trafficking, and manufacturing in the nation. Synthetic narcotics and novel psychoactive substances (NPS) like yaba are emerging as serious challenges to public safety and health, and the current legal system is ill-equipped to deal with them.⁶²

Enforcement of laws, monitoring of lawful drug and chemical usage, and cooperation with other nations and international organizations are all hindered by the Department of Narcotics Control's (DNC) and associated agencies' inadequate ability and resources.⁶³ People who use drugs, particularly women, children, and members of other oppressed groups, have a hard time getting the help they need, including rehabilitation, treatment, and prevention programs.⁶⁴

ii. Innovative Approaches to Drug Control and Prevention in Bangladesh, Case Studies and Insights:

By involving and enabling local communities, particularly religious leaders, to provide drug users emotional support, counseling, and referrals, as well as to increase awareness and decrease stigma, community-based drug treatment and rehabilitation programs may be implemented. In several areas of Bangladesh, the strategy is put into action by the Department of Narcotics Control in collaboration with a number of non-governmental organizations (NGOs), including YPSA and Dhaka Ahsania Mission.⁶⁵

Drug-free education initiative Through the implementation of drug testing, peer education, extracurricular activities, and life skills education, this strategy seeks to reduce drug use among school-aged children. The strategy is put into action in certain schools throughout the nation by the Ministry of Education and the Ministry of Social Welfare in conjunction with the UNODC and other associates.⁶⁶

⁶² United Nations Office on Drugs and Crime (UNODC). (2008). Handbook on HIV and Drug Trafficking. <https://www.unodc.org/unodc/en/human-trafficking/2009/anti-human-trafficking-manual.html>: <https://www.unodc.org/unodc/en/human-trafficking/2009/anti-human-trafficking-manual.html> (accessed Jan 8,

⁶³ *ibid*

⁶⁴ *ibid*

⁶⁵ *ibid*

⁶⁶ *ibid*

The goal of a mobile drug testing laboratory is to quickly and reliably detect and analyze drugs and their precursors by using a van that is loaded with testing kits and other laboratory equipment. The strategy aims to improve the efficiency and effectiveness of law enforcement authorities; it has the backing of the United Nations Office on Drugs and Crime and the Australian Federal Police. The Department of Narcotics Control and the Rapid Action Battalion are in charge of its implementation. The constitutionality of the mandatory death sentence for drug trafficking under the Narcotics Control Act was challenged in this significant legal case. The Court established substantial safeguards, mandating that judges carefully evaluate mitigating factors before imposing the death sentence and stressing the need for proportionality in relation to the crime, all while confirming the validity of the Act. This momentous ruling shifted the discourse towards adopting a more equitable position on drug punishment.⁶⁷ This specific case addressed the issue of drug suspects being subjected to prolonged pre-trial custody. The court set a precedent by emphasizing the right to a speedy trial and ordering the release of those who had been detained for extended durations without one. The judgment was made with the aim of safeguarding the right to due process in drug-related cases and preventing any unjustified confinement.⁶⁸ This specific example shed focus on the need of using evidence-based therapy and rehabilitation methods for those struggling with drug addiction. The court has mandated the government to provide enough resources and competent personnel for incarcerated drug users or those involved in legal proceedings, acknowledging addiction as a medical condition that may be remedied. This verdict facilitated the implementation of a more streamlined and empathetic approach to addressing the root causes of drug addiction.⁶⁹ The event revealed the vulnerability of those operating in the lowest ranks of the narcotics industry. The court decreased the defendant's sentence, emphasizing the need for appropriate and clear reactions to varying levels of participation in the drug trade, considering the defendant's position as a minor messenger and his absence of prior criminal record. This ruling exemplified the recognition that drug-related matters need a judicial system that is tailored to their unique characteristics.⁷⁰

⁶⁷ State vs. Md. Mizan 2015 (2) SCR 657-747

⁶⁸ State vs. Md. Habibur Rahman 2018 (2) SCR 129-140

⁶⁹ State vs. Md. Mizanur Rahman SCR 304-311

⁷⁰ State vs. Md. Russell Mia 71 DLR (AD) 145

iii. Evaluating and Enhancing Drug Policies in Bangladesh, Methods and Criteria for Improvement

Indicators refer to measures, either quantitative or qualitative, that are utilized to monitor and evaluate the effectiveness and influence of drug policies and programs. These indicators encompass various aspects, including the availability, accessibility, and affordability of drugs and medications, the prevalence and patterns of drug use and addiction, the occurrence and repercussions of drug-related crimes and harms, and the extent and quality of drug prevention and treatment services.⁷¹

Surveys and studies: These methods involve systematic and scientific approaches to gather and evaluate data and information regarding the drug situation and drug policy responses. This includes assessing the prevalence and patterns of drug use, trafficking, and production, identifying the factors that contribute to drug use and addiction, evaluating the effectiveness and efficiency of drug policies and programs, and learning from successful practices and experiences in other countries and regions.⁷²

Stakeholder involvement refers to actively engaging and consulting with the pertinent actors and groups impacted by or involved in drug policies and programs. These may include the government, civil society, media, academia, international organizations, and drug users and their families. The objective is to gather their perspectives, opinions, and feedback, and to ensure their active participation and sense of ownership.⁷³

The drug control landscape in Bangladesh encompasses various aspects, including the prevalence and patterns of drug use, trafficking and production, the legal and institutional framework, the policies and strategies, the prevention and treatment programs, and the collaboration and coordination with other countries and regions.⁷⁴

⁷¹ United Nations Convention against Transnational Organized Crime (UNTOC): United Nations, "United Nations Convention against Transnational Organized Crime and the Protocols Thereto," 2000, accessed January 7, 2024, <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>.

⁷² Rahman, M., & Ahmed, S. (2022). Human rights and drug control policy in Bangladesh: A critical analysis. *Bangladesh Journal of Public Administration*, 22(1), 1-15.

⁷³ *ibid*

⁷⁴ *ibid*

Chapter 05:

Findings, Recommendation and Conclusion:

Consider the following concrete ideas to bridge the gap between Bangladesh's existing regulations and international standards and develop a more effective and humane drug control strategy:

5.1 Findings

This legal examination finds a gap between Bangladesh's drug-control procedures and international standards. The glaring absence of harm reduction therapies such as NEP and OST, as well as the emphasis on harsh and brutal sentencing procedures and the criminalization of personal drug use, all contradict UN recommendations and human rights standards. These disparities have a negative impact on public health by impeding HIV/AIDS prevention, prolonging stigma, and compromising access to adequate treatment. Furthermore, the Act's ambiguous wording and loopholes contribute to arbitrary enforcement and human rights breaches. While there are some beneficial aspects, such as admitting the need for rehabilitation, fundamental reforms aligned with worldwide best practices are required to bridge the gap and pave the way for a more successful, evidence-based, and humane approach to drug control in Bangladesh. Disagreements include the omission of damage reduction, punitive sentencing, and criminalized possession.

Implications: Negative public health consequences, stigma, limited treatment availability, and infringement of human rights.

Action needed: Reform the legislative framework to be more in line with international norms, with a focus on public health and human rights.

5.2 Recommendation

Pilot and scale up NEP, OST, and comparable therapies in accordance with UNODC recommendations and tailored to the Bangladeshi environment.

1. **Sentencing reform:** Transition away from mandatory minimums and toward more personalized, evidence-based methods that prioritize rehabilitation and restorative justice. Personal possession should be decriminalized to focus on public health interventions and root causes, while freeing up resources for harm reduction and treatment.
2. **Close legal loopholes:** To defend due process and prevent abuse of power, revise the concept of "drug abuse" and enhance supervision measures.
3. **Increase awareness and participation:** Launch national anti-stigma initiatives, educate communities, and involve them in policy formation.
4. **Look into the underlying causes:** Investigate socioeconomic characteristics, mental health issues, and other elements that contribute to drug use in order to develop focused prevention strategies. Investigate alternative development: Adapt effective approaches from nations such as Colombia to empower drug-producing communities.
5. **Examine traditional therapeutic methods:** Examine the feasibility of combining culturally relevant techniques with evidence-based interventions.

5.3 Conclusion:

This examination reveals serious discrepancies between Bangladesh's drug control structure and international standards. These gaps have serious implications for public health, human rights, and the efficacy of drug-control initiatives. Bangladesh may chart a new route toward a more humanitarian, rights-based, and ultimately more effective approach to drug control by implementing the recommended policy reforms, investing in research, and prioritizing evidence-based interventions. Moving forward, it is critical to embrace a collaborative spirit, involving communities, researchers, policymakers, and international partners in envisioning a future in which public health, human dignity, and social justice are the fundamental values in addressing Bangladesh's complicated drug-use challenges.

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