

CHAPTER II : LITERATURE REVIEW

2.1 Introduction

The chapter will discuss literature review from previous study and theoretical framework. The literature review will be carried out by examining the research carried out by scholars and journalists on the subject. The other observational literature, important for this research, will be illustrated. To get a clearer picture of the combating drug issue in Malaysia, researchers have made several reviews of past studies.

2.2 Review of Related Study

Drugs are a sensitive issue in terms of enforcement for a country. It is also a very complicated problem to solve according to the perception of some countries in the Southeast Asian region (William & Wiencek, 2000; Bakri Mat & Zarina Othman, 2014). The statement is supported by data from the UNDC (2011) which reports that in the Asian region for 2009 alone, the net profit obtained from the sale of drugs is as much as USD 7 billion. As a result of these statements and impressions, it shows that illegal drug activities are very easy to enter countries in the region widely. There are countries in Southeast Asia that consider the drug issue to exist because of government policies that do not care about drug eradication and keep the region away from new forms of security threats. While Collins (2007) adds more and claims that it depends a lot on the political will of a ruling regime.

While Brownfield and William (2011) are of the same view, claiming that the country's failure is the main reason why drugs are finally becoming more widespread. Drugs for some countries are not illegal commodities because the term drug itself contains many meanings such as the use of drugs in the health field is allowed. According to William, this is what the state factor needs to perform a strict control function on, whether drugs can be allowed to be widely abused or not. Studies by local scholars also claim that the drug problem is still a serious and worrying issue (Abdullah al Hadi et al., 1997; Ismail Ahmad, 2001; Mimi Kamariah, 1995; Yusramizza Yusuf, 2007).

2.2.1 Drug situation in Malaysia

Malaysia is now more focused on illegal activities that cross borders, which are non-military, example "non-military" or "non-traditional". This includes cross-border crime, such as organized crime involving drugs (Drug Catel), human trafficking, pirate robbery, and firearms trafficking. Drug trafficking, for example, involves syndicates that not only carry out drug trafficking activities but are also responsible for money laundering. involving billions of US Dollars (United Nations Office on Drug and Crime, 2011). In their study, they stated that globalization also contributes to economic inequality between countries, which also contributes to the poverty rate in a country. Due to the economic pressure that hit the community, this is one of the factors to the occurrence of drug trafficking activities (Patcharawalai Wongboonsin et al., 2006).

De Rouen and Bellamy (2008) claim that the drug problem in Malaysia is influenced or raised by the drug situation from neighboring countries. As is known, Malaysia, which neighbors Indonesia, Thailand and Singapore, will indirectly be

exposed to drug issues if the neighboring countries are unable to maximally control drug activities in their respective countries. The effects of the widespread drug issue in neighboring countries, will logically cause Malaysia to potentially become a destination country or become a transit country.

According to Hoadley and Ruland (2006), Malaysia's national security aspects need to be reviewed. Review the aspects that can threaten national security to look in depth at aspects that expose the country to security threats. The drug threat is one of the aspects that exposes Malaysia to security threats, therefore it needs to be reviewed. Hoadley and Ruland's views show that drugs are a major issue for Malaysia's security.

Uncontrolled drug and substance use (DSU) may pose unprecedented threats to nation building and socioeconomic development in a country. Despite significant efforts and resources expended to address DSU concerns, Malaysia has seen a significant annual increase in DSU cases. Most reported cases involve young people between the ages of 15 and 40. Until now, data on DSU in Malaysia has been entirely dependent on operation statistics, arrest counts, and reported cases; DSU may thus be under-reported, and the data obtained may not be representative at the national level. The purpose of this study is to conduct a large nationwide representative survey to determine the prevalence of DSU among Malaysian youth. The prevalence of DSU was found to be 5.5% among lifetime users in a population of 11,129,316 youth aged 15-40 years, and 3.5% among those who had taken drugs in the previous 30 days or who currently use them. For lifetime users, the most popular drugs were kratom (ketum) or *Mitragyna speciosa*, while cannabis was the most popular drug for current users. The current study reports the scope of the problem at the national level, which is an important first step toward developing evidence-based and well-informed policies. (Ismail et al., 2020).

Malaysia in 1983 implemented such a multifaceted anti-drug strategy, and the results of a 1987 study by the author suggested that Malaysia's effort had begun to contribute to a steady decrease in the number of identified drug abusers. Although the number of drug-addicted individuals declined, the country's recidivism rates were still high. Because of this high relapse rate, Malaysia expanded their rehabilitation effort and developed a community transition program. (Scorzelli, 1992).

2.2.2 Drug smuggling and trafficking

In Malaysia, drug smuggling, distribution, abuse and addiction has become a major issue that poses a threat to national security. Among the scholars who discuss this problem are Winer (1986), Abdullah and Iran (1997), giving us the view that this smuggling activity occurs almost every day at the country's borders. According to Ismail Ahmad (2001) the activities of smuggling and drug distribution experience a significant increase from day to day. The success of smuggling syndicates penetrating the border poses a threat to the integrity of Malaysia's national borders. His illegal entry into the country is described as undermining the country's credibility by showing that its borders cannot be controlled effectively.

This change in distribution trends becomes a threat to economic security caused by changes in drug demand. The international community is aware and is starting to create agencies that can help to deal with or deal with this issue. These agencies include The United Nations Office on Drug and Crime (UNODC), The World Customs Organization (WCO), the International Police Organization (Interpol), and The International Narcotics Control Board (INCB) (Fazey, 2007). However, the development of a strong network between syndicates across national borders becomes

an obstacle to the policies that have been drawn up, therefore the success is very minimal.

In Malaysia, two categories of distribution trends, 1) by smuggling traditional drugs and 2) the distribution of synthetic drugs (Annual Report of the Royal Malaysian Police, 2011) involving syndicates. This organized crime is a serious criminal activity as reported by the Federal Bureau of Investigation in the United States and claims that this organized crime is, "... an organized crime enterprise is a continuing conspiracy, having an organized structure, fed by fear and corruption and motivated by greed" (Banks et al., 2009).

The drug situation in Malaysia is becoming more serious with the discovery and detection of a large-scale drug trafficking syndicate by law enforcement in Kuala Lumpur (Report of the Narcotics Crime Investigation Department, 2011). Among them is the dismantling carried out by the NCID of the RMP against illegal laboratories, medicine shops and cash from illegal drug trafficking activities in Penang (Utusan Malaysia, 2012). Apart from that, other enforcement agencies such as the Royal Malaysian Customs Department and the Malaysian Ministry of Health's Pharmacy Division also conducted operations at the departmental level and found evidence related to the drug business in Malaysia (Report of the Narcotics Crime Investigation Department, 2012).

According to Md Onzer et al (2022) The history of drug trafficking on Langkawi Island began with the arrival of the British and Chinese merchants and Indian traders in Malaya in 1867. The modus operandi of drug smuggling, which takes advantage of the geographical conditions, lack of enforcement personnel and assets as well as the existence of corruption and misconduct among dignitaries and enforcement

personnel, has made this crime more serious and a threat to the security of Langkawi Island.

Finding from Suhana Ismail et al. (2015) drugs can be smuggled in many other ways, commonly in double layers of suitcases and bags, in food products such as fruits and candy, various household items and containers, hidden inside the airplane itself and other more creative ways. Some of the smuggling ways never come across in the mind of the authorities but were implemented by the crime syndicates. Wrapped boxes are always detected in airports and ports, and almost every passenger has these boxes with them while travelling. Some of these boxes are even gift wrapped and disguised as gifts. In certain instances, the illegal substances were kept inside a doll to sneak past the authorities, and most cases involved children. Dirty tricks and conceivable means were used including exploitation of the elders and children.

Malaysia's border reflects the same kinds of issues and problems found along the United States-Mexico border. Illegal immigrants, smuggling, drug trafficking, boundary disputes, especially maritime ones, pollution, and conflict over resources, are all found on Malaysia's borders, just as they are along the U.S.-Mexico border. There are two major differences: first, the presence of communist insurgents is unique-although some may remember the attack of Pancho Villa on Columbus, New Mexico during the Revolution; second, Malaysia does not have a hegemonic neighbor which can impose its will. As a result, Malaysia seems to have been successful in settling its border conflicts and resolving differences with its neighbors. Richard Bath (1988)

Since the 1970s, Malaysians and the government have both been deeply concerned about the problem of drug trafficking. The drug trafficking phenomenon has long been a problem in this nation. Despite various attempts to abolish or even

significantly reduce the issue, as well as prevention programs, legal implementations, and regional initiatives, full success has never been attained. The country's drug trafficking tendency has advanced to a considerably more advanced stage. Humans, often known as "drug mules," are being increasingly exploited and utilized as a means of transporting drugs, which has resulted in an increasingly dangerous and life-threatening trend.

The national problem in Malaysia is now drug trafficking. Since it first surfaced in the 1970s, this threat seems to have little sign of abating. Despite this, Malaysia is dedicated to considerably reducing or eliminating the problem of drug trafficking by working to tighten its laws and regulations. These efforts are useless, though, as the outcome does not match the goal. Due to the speed at which international crime is developing, present enforcement strategies frequently fail. When he emphasizes that the endeavor to combat drug production and trafficking has failed due to a lack of resources and poor domestic institutions, Pierre-Arnaud Chouvy (2013) concurs with these facts. Pierre-Arnaud Chouvy published an article titled "The drug market is thriving while the Commission on Narcotic Drugs Limp Along".

2.2.3 Drug possession

According to Tam Cai Lian and Foo Yie Chu (2013), drug abuse is a complex issue and has been a serious public health problem in Malaysia. The high relapse rate which has been consistently over 50% for the past decades has been worrying also. Research into the contributory factors of drug abuse represents a continuing effort to curb this growing social threat and past research has shown that family factors and peer influence were two of the primary contributory factors of drug abuse.

Illicit drug use among adolescents has become a significant public health and social problem worldwide. According to the World Drug Report,¹ the involvement of youth in licit and illicit substances globally is on the rise. The use of illegal substances by adolescents is associated with more immediate health effects, such as depression, interpersonal violence, motor vehicle accidents, drowning, risk of sexual behavior, and suicidal behavior. (Yusoff et al., (2015)

2.2.4 Drug Law/Legal Issues

In Malaysia there are (5) Acts that apply to drug-related offence. The Acts are:

2.2.4.1 Dangerous Drug Act 1952

This act is used to control the importation, exportation, manufacture, sale and use of opium and certain dangerous substances and drugs. Making special provision in relation to the court's jurisdiction over the offenses covered under it and the Court's trial.

2.2.4.2 Drug Addict (Treatment & Rehabilitation) Act 1983

Enacted to provide treatment and rehabilitation to drug addicts. In addition to being an advanced treatment process that focuses on monitoring addicts to ensure they do not repeat their distribution.

2.2.4.3 Dangerous Drug (Special Preventive Measures) Act 1985

An act to make provision for the preventive detention of persons connected with any activity connected with or making for the trafficking of dangerous drugs.

2.2.4.4 Dangerous Drug (Forfeiture of Property) Act 1988

An act to make provisions on offenses relating to property and on the confiscation and forfeiture of property relating to activities related to offenses under the Dangerous Drugs Act 1952.

2.2.4.5 Poison Act 1952

An act to regulate the importation, possession, production, sale and use of poisons. "Poison" means substances named and listed in the list of Poisons and includes any mixture, preparation, solution or original containing such substances any preparation or substances contained in the Second Schedule to this act.

NCID employs all the actions in this nation's drug law enforcement. Only as of February 2020, NCID has totally given over to NADA's enforcement and no longer initiates inquiries into drug addiction issues.

The phenomenon of drug abuse is really a global problem that has haunted modern society. Its notoriety practically does not confine itself within specific geographical borders nor differentiate its numerous victims in terms of ethnicity or the

socioeconomic status of nations. Malaysia itself is no exception because each year the statistics of new drug addicts identified has steadily given rise to staggering drug laws around the world, whereby trafficking in drugs carries the mandatory death penalty or life imprisonment in most of the countries in Southeast Asia. (Chandra Segaran, 2018).

Nevertheless, the drug problem seems to have persisted unabated. The problem is considered more challenging, largely due to its close proximity to the Golden Triangle, the main heroin producing region. However, the development of Amphetamine-Type Stimulants (ATS) such as methamphetamine, which has a bigger market and offered high profits, contributes to the higher prices in Malaysia. This makes Malaysia particularly attractive for the operation of international drug trafficking syndicates (Chandra Segaran, 2018).

In the early 2000s, Amphetamine Type Stimulants (ATS), primarily methamphetamine, started to dominate the illicit drug markets, including in Malaysia. In recent years, ATS use disorder accounts for most drug-related treatment admissions in Asia (UNODC, 2019a). This shift in drug use patterns prompted changes in how drug enforcement and related government agencies address drug use problems. A national drug policy that decriminalizes substance use and primarily focuses on provision of effective medical interventions for People Who Use Drugs (PWUDs). PWUDs, including a broader provision of effective treatment interventions for imprisoned drug offenders, should be implemented recognition of substance use as a public health crisis should prompt the government to entrust management and support of PWUDs to the Health Ministry rather than the Home Ministry (Vicknasingam, et al., 2021).

Corporal punishment is justified in Malaysia as a deterrent to illicit drug use (HRI,2011b). This ignores the fact that drug dependence is a multi-factorial health

disorder that often follows the course of are-lapsing and remitting chronic disease (UNODC-WHO, 2020 & MacDonald, 2018)

The impact of legal and illegal drugs is not restricted to public health. These substances also contribute to the financial and social burden of crime. Studies have consistently shown a strong relation between substance misuse and crime (Caulkins & Kleiman, 2011; Ellis, Beaver, & Wright, 2009). At the neighborhood level, crimes rates and rates of substance use and social nuisance are strongly correlated (Boardman, Finch, Ellison, Williams, & Jackson, 2001), and at the individual level, drug use has been shown to play a role in pathways to serious offending (Le Blanc, 2006; Piquero, Farrington, & Blumstein, 2007); serious offenders are responsible for a substantial part of crime.

The most obvious and straightforward connection can be found in the form of drug law violations such as trafficking and dealing (EMCDDA, 2007). A more complex relationship can be found between illicit drug and alcohol use and non-consensual crimes as the link between both is not defined by law but by the effect on behavior (Caulkins and Kleiman, 2014, Pacula et al., 2013). All these crime types have an impact on the costs to the criminal justice system, lead to losses to productivity (due to incarceration) and have an impact on quality of life. The total cost of drug-related crime is enormous (Caulkins & Kleiman, 2011).

The health and crime costs attributable to legal and illegal drugs have been estimated nationally by multiple social cost studies. Most of these studies indicated that legal drugs impose the greatest cost to society because of the high healthcare costs for alcohol and tobacco related diseases (e.g. Collins & Lapsley, 2008; Fenoglio, Parel, & Kopp, 2003; Kopp, 2015; Rehm et al., 2007; Single, Robson, Xie, & Rehm, 1998). These studies also examined the composition of the social costs by comparing the

healthcare costs with law enforcement and prevention costs. Looking at the social costs of illegal drugs specifically, most studies reported that law enforcement expenditure exceeds healthcare costs (Fenoglio et al., 2003, Potapchik and Popovich, 2014, Rehm et al., 2007).

The Malaysian government's drug intervention programs have been implemented to combat the nation's drug abuse problem by eliminating drug dependency and preventing relapse (National Drug Policy, 1983). Drug testing is widely used as a criminal justice tool to coerce drug dependents into compulsory treatment at government-run drug rehabilitation centers. Over the years, a significant number of court cases have challenged the legality of detention of drug dependents at the centers due to procedural errors in mandatory drug testing. This article examines the necessary criteria to determine optimum validity of drug testing results, for example from the collection of urine specimen, chain of custody, accuracy, and reliability of urinalysis to interpretation of test results. Non-compliance with such procedures may result in unlawful detention of individuals at drug rehabilitation centre for a period of 2 years and thereafter supervision within the community for another 2 years. Sarina (2014)

In addition to that, to curb the problem of distribution for which there is insufficient evidence to be accused in Court, an act called the Dangerous Drugs (Special Preventive Measures, 1985) is provided to control them. who are subject to restriction orders will serve restrictions on their movement. However, these people are still active in carrying out daily activities such as work and so on in the areas that have been ordered by the Minister of Home Affairs under the Dangerous Drugs (Special Preventive Measures) Act 1985.

Excerpts from the act which states that restricted persons are ruled in accordance with a restricted order as provided by the said act are as follows: "An act to make provisions regarding restricted persons or restricted persons regarding matters related to it. Section 6(3) of the Dangerous Drug (Special Preventive Measures) Act 1985 orders that the person be placed under police supervision at the place specified in the order for a period not exceeding 2 years". The minimum period of restriction for a person subject to a restriction order is two years and can be extended up to six years at the discretion of the Minister of Home Affairs based on their behavior report during the period of serving the restriction order. The issue here is that while they are undergoing a movement restriction order, they are still free and they can do various activities such as drug trafficking, recruiting addicts to become dealers, then environmental threats will exist. These people are not provided with counseling sessions by relevant experts while undergoing the restriction order. Next, the local community will feel uncomfortable living in an environment that has many former dealers or many of them are still active in carrying out illegal activities in the same place (Helmi Mohamad, 2012).

2.3 Chapter Conclusion

This chapter has covered the topic of drug situation in Malaysia, drug smuggling and trafficking, drug possession and drug legal issue in Malaysia. Besides that, this chapter also covers the phenomenon of the studies.