



## Application of Integrated Assessment in Law Enforcement against Narcotics Abusers

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### **Abstract**

This study aims to examine 2 (two) main problems, namely how is the application of integrated assessment in law enforcement against narcotics abusers and why there are obstacles to the application of integrated assessment in law enforcement against narcotics abusers. The method used in examining these two problems is the normative method using the legal approach (statute approach) and the case approach (case approach). The application of the integrated assessment is based on the provisions of Article 127 paragraph (2) and (3) of the Narcotics Law which requires evidence for narcotics abusers in order to be rehabilitated. This proof can be obtained by the existence of an integrated assessment of narcotics abusers which aims to identify the level of narcotics addiction and their involvement in the narcotics network. Its implementation is regulated through the Joint Regulation of 7 (seven) State Agencies as a technical guide in law enforcement against narcotics abusers so that it is synergistic and integrated. Through an integrated assessment, narcotics abusers can be placed early in the rehabilitation system while law enforcement continues. The implementation of an integrated assessment can be seen as a Restorative Justice approach to narcotics abusers, law enforcement continues and restoration of the condition of narcotics abusers can still be achieved.

**Keywords:** *Integrated Assessment; Narcotics Abuse*

### **Introduction**

Indonesia is one of the countries that have become the main destination for the illicit trafficking of narcotics and its precursors. The current misuse and illicit trafficking of narcotics has reached a level that is alarming and threatens all aspects of the life of the nation and state. The problem of narcotics abuse in Indonesia has penetrated most layers of society, from the top to the bottom. The spread of narcotics is no longer only in big cities, but has entered small cities and has penetrated into sub-districts and even villages.<sup>1</sup>

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<sup>1</sup> Hari Sasangka, *Narkotika dan Psicotropika Dalam Hukum Pidana*, Mandar Maju, Bandung, 2003, p. 2

Basically, narcotics users are committing an act of abusing the efficacy and function of narcotics and the drugs they use. Narcotics abuse is the use of narcotics not intended as a means of treatment but because they want to enjoy, in excessive amounts, regularly and long enough to cause health, physical, mental and social life problems. The abuse of narcotics for a long period of time continuously can lead to addiction, that is, addictive behavior towards the use of narcotics.<sup>2</sup>

The abuse of narcotics is closely related to the quality of human resources and the future of the nation, because the biggest victims of narcotics abuse are the young generation. The young generation is an important element in achieving the ideals of national development as stated in the state objectives in the Preamble to the 1945 Constitution.

The abuse of narcotics and illegal drugs is categorized as a criminal act because the consequences it causes are very dangerous, not only for the user but also for the family and the surrounding community. The determination of narcotics abuse as a crime begins with the placement of narcotics and psychotropic abuse as crimes in the law, which is commonly said to be criminalization. Along with advances in science and technology, narcotics crime is seen to have increased to become transnational in nature, carried out using a high modus operandi, sophisticated technology, supported by a wide network of organizations, and causing more and more victims, especially among the very young generation. Endanger the life of society, nation and state.

Legislative provisions regulating the issue of narcotics have been drafted and enforced; however, crimes related to narcotics cannot be mitigated. In many recent cases, many dealers and dealers were caught and received heavy sanctions, but other actors seem to ignore them and are even more inclined to expand their area of operation.<sup>3</sup>

Law Number 35 of 2009 concerning Narcotics as a revision of Law Number 22 of 1997 concerning Narcotics and also covers the classification of narcotics groups I and II in Law Number 5 of 1997 concerning Psychotropic, was promulgated on October 12, 2009 and placed in the State Gazette of the Republic of Indonesia of 2009 Number 143 as well as the additional State Gazette of the Republic of Indonesia Number 5062. This law was issued as a government action in responding to the increasing abuse of illicit narcotics trafficking and to ensure the regulation of medical and social rehabilitation efforts for abusers and drug addicts the purpose contained in Article 4 letter (d) of this Law on Narcotics.

The impact of the purpose in Article 4 letter (d) is the adoption of alternative punishment that can be imposed on the perpetrators of narcotics abuse. Apart from convictions in the form of imprisonment and fines, the Narcotics Law also opens opportunities for rehabilitation for addicts and victims of narcotics abuse. This is due to the fact that the imposition of criminal sanctions in the form of imprisonment and fines does not have a deterrent effect on the perpetrators.<sup>4</sup>

Criminalization is not merely a punishment for a person who has committed a criminal act but also has the aim of restoring justice for the victim. The aspects of punishment given to Narcotics addicts are aimed at providing treatment and rehabilitation rather than just punishment. Because basically, narcotics abusers or addicts are perpetrators of criminal acts of narcotics abuse as well as victims of their own actions.

Based on the description above, the authors are interested in conducting a study and research with the title Application of Integrated Assessment in Law Enforcement against Narcotics Abuse.

Based on the descriptions above, the problems in this discussion are:

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<sup>2</sup> Mudji Waluyo, *Pedoman Pelaksanaan P4GN*, Badan Narkotika Nasional, Jakarta, 2007, p.17

<sup>3</sup> O.C. Kaligis & Associates. 2002. *Narkoba dan Peradilannya di Indonesia, Reformasi Hukum Pidana Melalui Perundangan dan Peradilan*, Alumni, Bandung, p. 260.

<sup>4</sup> Siswanto Sunarso, *Penegakan Hukum Psikotropika dalam Kajian Sosiologi Hukum*, Rajawali Press, Jakarta, 2004, p. 8

- a. How is the Application of Integrated Assessment in Law Enforcement against Narcotics Abusers?
- b. What are the obstacles to the implementation of integrated assessment in law enforcement against narcotics abusers?

### ***Result and Discussion***

Regarding narcotics, the prevention and eradication of criminal acts of abuse is regulated through Law Number 35 of 2009 concerning Narcotics. Article 1 point (1) of the law states that narcotics are substances or drugs derived from plants or non-plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependency, which is divided into groups as attached in the law.

Narcotics are substances that are very dangerous when abused. The direct result of users who abuse narcotics is psychological dependence. This psychological dependence causes the user to be unable to escape the narcotics. Psychological dependence due to the use of narcotics is the emergence of a state of forgetfulness in the user, so that he can escape from a conflict situation without being able to escape the causes of the difficulty. Narcotics users are increasingly unable to adapt to society so that the difficulties they experience will be even greater and the need for narcotics will be even greater. Meanwhile, physical dependence associated with the use of narcotics for some time results in reduced sensitivity to these substances. The body gets used to it until it comes to immunity. This is getting more complicated where the dosage will increase and when its use is stopped it will result in death.<sup>5</sup>

One of the efforts made in preventing the circulation and abuse of narcotics through legal mechanisms, especially criminal law, is through the formulation of prohibitions accompanied by the threat of strict criminal sanctions against narcotics abusers. The penal sanctions for these crimes must be in such a way as to be able to suppress this crime from the perspective of the perpetrator.

Article 54 of the Narcotics Law regulates the obligation to undergo rehabilitation for addicts and victims of narcotics abuse. Meanwhile, article 55 regulates the obligations of the parents or guardians of narcotics addicts who are not old enough to report to get treatment and care through rehabilitation. Furthermore, addicts who are old enough must report themselves or their family reports in order to get the rehabilitation. Article 103 Law Number 35 Year 2009 concerning Narcotics provides that judges can decide or assign narcotics addicts to undergo medical rehabilitation and social rehabilitation. The aforementioned article shows that medical rehabilitation and social rehabilitation are among the decisions that can be taken by judges in cases of narcotics abuse.

The dominance of narcotics cases which lead to the use of criminal sanctions can be understood as an effort to eradicate awareness and abuse of narcotics. However, that does not mean it is the only effort to break dependence on these narcotics. Criminal sanctions will seem useless if we link them to remedies for dependence and the effects of narcotics on the people who use them. Medical rehabilitation and social rehabilitation are the right efforts to overcome the problems described above. However, the effects of dependence on a person must be immediately reduced, prevented, and stopped so as not to become addicted and even to a fatal condition, namely death.

Medical rehabilitation and social rehabilitation can already be requested for people who are caught or undergo the investigation process in narcotics cases during the police investigation or prosecution stage. In conducting the assessment of narcotics addicts as suspects of narcotics abusers, an Integrated Assessment Team is formed. This Integrated Assessment Team consists of a Team of Doctors which includes doctors and psychologists, a Legal Team, consisting of elements from the National Police, BNN, the Attorney General's Office, and the Ministry of Law and Human Rights.

The Integrated Assessment Team has the authority to:

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<sup>5</sup> Sudarto, *Kapita Selektta Hukum Pidana*, Cetakan 4, Bandung, PT. Alumni, 2010, p. 39-49

- 1) At the request of the investigator to analyze the role of a person who has been arrested or caught red-handed as a victim of narcotics abuse, narcotics addict, or narcotics dealer
- 2) Determine the criteria for the severity of narcotics users according to the type of content consumed, the situation and conditions when arrested at the scene of the case.
- 3) Recommending a therapy and rehabilitation plan for narcotics addicts and victims of narcotics abuse.

The legal team is tasked with analyzing the link between the illicit trafficking of narcotics, precursors and narcotics abuse in coordination with investigators handling cases. The results of the legal team's analysis in this assessment process are useful to determine that the person concerned is not involved with the trafficking of narcotics. Through this assessment, at the request of investigators, the legal team can analyze the role of a person who has been arrested or caught using narcotics as an addict or as a dealer.<sup>6</sup> If the results of the assessment show that the person concerned is not involved in the trafficking of narcotics, then there will be a greater chance of getting rehabilitation.

Examination in this assessment process is very important to determine whether a suspect or defendant is a drug addict and a victim of narcotics abuse, for the rehabilitation process. However, in many cases the addict is also involved as a dealer or courier, making medical and social rehabilitation impossible. Rehabilitation of narcotic addicts is carried out at a hospital appointed by the minister. Suspects or defendants who, based on the decision of the Integrated Assessment Team, undergo medical rehabilitation, they will then be handed over to the appointed institution. Based on the Regulation of the Minister of Health Number 90 of 2015 concerning Technical Guidelines for the Implementation of Mandatory Medical Reports and Rehabilitation for Addicts, Abusers, and Victims of Narcotics Abuse, the submission procedure is as follows:

**Submission:**

- a) Submission is carried out by the investigator or public prosecutor accompanied by the family and the National Narcotics Agency by attaching a rehabilitation therapy plan recommendation from the Integrated Assessment Team.
- b) The delivery is made during the administrative working hours of the designated medical rehabilitation facility.
- c) The handover of a suspect or defendant to a designated rehabilitation facility must be accompanied by the provision of informed consent (i.e. consent after receiving information from the rehabilitation facility) from the suspect or defendant, witnessed by the investigator or public prosecutor and his family.

**Implementation:**

- a) Medical rehabilitation for a suspect or defendant is carried out in an inpatient or outpatient manner according to an official written request from the police, BNN/ BNNP/BNNK (investigator), or the prosecutor (public prosecutor) based on the recommendation of a rehabilitation therapy plan from the Integrated Assessment Team., for a maximum period of 3 (three) months.
- b) In the case of a suspect or defendant undergoing inpatient rehabilitation therapy, while undergoing custody at a medical rehabilitation facility, there are several things that must be considered by the patient, namely:
  - 1) Obligated to follow a program determined by the medical rehabilitation facility;
  - 2) Do not carry any means of communication; and
  - 3) Communication with family / other parties must be through health workers who carry out rehabilitation.

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<sup>6</sup> Ratna WP, Narcotics Abuse Criminal Aspects: Rehabilitation Versus Prison (Highlighting Article 127 of Law Number 35 Year 2009), (Yogyakarta: Legality, 2017), p. 93

- c) In the case of a suspect or defendant undergoing outpatient rehabilitation therapy, the authority to bring the suspect or defendant to participate in the rehabilitation process rests with the investigator or public prosecutor (depending on the level of the case).
- d) The medical rehabilitation facility provides information to the court that determines 2 (two) weeks before the rehabilitation period ends.
- e) Patients who have finished undergoing rehabilitation therapy as referred to in letter b are handed back to the party entrusting the suspect or defendant (investigator or public prosecutor) by submitting the final resume of rehabilitation therapy activities.

Anyone who is caught or caught in the hands of narcotics who submits an assessment process for medical rehabilitation as long as it does not meet the criteria of being a dealer or if the amount of evidence in the form of narcotics does not exceed the specified limit, then the investigator based on the request concerned will propose and administer the assessment process. After the application for assessment is submitted, the Integrated Assessment Team consisting of the Legal Team and Team of Doctors will conduct an analysis of a person who has been arrested and / or caught red-handed in the distribution and abuse of narcotics. This activity is intended so that addicts and / victims of narcotics abuse who are designated as suspects or defendants in narcotics crime cases during and after the judicial process can be placed in rehabilitation institutions to obtain treatment and treatment in the context of restoring dependence on narcotics.

The NTB Province National Narcotics Agency (BNN) in providing rehabilitation recommendations for narcotics users considers the following:

1. Implementation of the Mandate of the Narcotics Law

Based on the provisions of Article 54 of Law Number 35 Year 2009 concerning Narcotics, it is stated that narcotics addicts and victims of narcotics abuse are obliged to undergo medical rehabilitation and social rehabilitation. Medical Rehabilitation is a process of integrated treatment activities to free addicts from dependence on narcotics Medical rehabilitation and social rehabilitation of narcotics addicts are clarified in Article 55 of Law Number 35 of 2009 concerning Narcotics:

- a. Parents or guardians of Narcotics Addicts who are not old enough are obliged to report to community health centers, hospitals, and / or medical and social rehabilitation institutions appointed by the Government to get treatment and / or treatment through medical rehabilitation and social rehabilitation.
- b. Narcotics addicts who are of legal age are obliged to report themselves or be reported by their families to community health centers, hospitals, and / or medical and social rehabilitation institutions appointed by the Government to get treatment and / or treatment through medical rehabilitation and social rehabilitation.
- c. Provisions regarding the implementation of compulsory reporting as referred to in Paragraph (1) and Paragraph (2) are regulated by a Government Regulation.

Furthermore, according to Article 56 of Law Number 35 of 2009 concerning Narcotics states:

- a. Medical rehabilitation for narcotic addicts is carried out in a hospital appointed by the Minister;
- b. Certain rehabilitation institutions run by government agencies or the community can carry out medical rehabilitation for narcotics addicts after obtaining the approval of the minister.

2. Results of the Integrated Assessment Team Inspection

The NTB Province National Narcotics Agency (BNN) in providing rehabilitation recommendations for narcotics users is based on the results of the examination by the Integrated Assessment Team which consists of the Medical Team and the Legal Team. The results of the examination that the expert had

carried out on the perpetrator showed that the perpetrator for further action should be rehabilitated, which would make the perpetrator's condition worse. Rehabilitation that can be done to the perpetrator on an outpatient basis because it will make it easier for the perpetrator to heal and make it easier for the perpetrator to be supervised. The changes that occurred to the perpetrator occurred due to support from the family, support from the institution where the perpetrator served and the attitude of the perpetrator himself who wanted to change for the better by leaving the perpetrator's habit of abusing narcotics. The results of the examination were also known that the perpetrator was classified as an addict at a moderate level, and in the intensive supervision stage for about 3 to 6 months the perpetrator would have succeeded in overcoming his addiction to narcotics, and this would be even better if he received encouragement from his family and the institution where the perpetrator was assigned.

### 3. Application for Rehabilitation

The NTB Province National Narcotics Agency (BNN) in providing rehabilitation recommendations for narcotics users also considers a letter of application for rehabilitation of the families of offenders who are narcotics addicts as regulated and subject to criminal sanctions in Article 127 Paragraph (1) letter a of Law Number 35 Year 2009 about Narcotics.

The purpose of the crime to prevent this crime can be distinguished between special prevention and general prevention, special prevention is intended to influence the crime against the crime until the prevention of this crime is to be achieved by the criminal by influencing the behavior of the convicted person not to commit a crime This theory is known as the rehabilitation theory.<sup>7</sup>

In accordance with the above theory, the recommendation of rehabilitation by the NTB Province National Narcotics Agency (BNN) to narcotics addicts aims to foster perpetrators to become better individuals and through the rehabilitation process is expected to prevent similar crimes in the future. While general prevention is intended to affect the effect of crime on society, meaning that prevention of crime is to be achieved by the criminal by influencing the behavior of the community so as not to commit a criminal act. There are three forms of influence in the sense of general prevention, namely the effect of prevention, the effect of strengthening moral prohibitions and the influence of encouraging a habit of obeying the law.

Another suitable theory is the integrative or combined theory. According to this theory, the granting of punishment is not only as retaliation for a criminal act which is committed but also as an effort to prevent the committing of a criminal act. Apart from being retaliation for impunity, punishment is given to influence the behavior of the general public for the protection of the community. As well as retaliation, the purpose of the crime and the justification of punishment are also recognized as a crime that has benefits both to individuals and to society. This teaching makes it possible to negate the circulation of criminal theory which integrates several functions at once.<sup>8</sup>

In accordance with the above theory, the recommendation of rehabilitation by the NTB Province National Narcotics Agency (BNN) to narcotics addicts aims to foster offenders to become better individuals as well as to provide treatment in the form of therapy to the perpetrators so that they can be separated from their dependence on narcotics. The purpose of punishment contains elements of community protection, views of the rehabilitation and resocialization of the convicted person. Criminalization is not meant to be distressing and degrading. This view conveys two interests, namely the protection of the community and the guidance of the perpetrators, punishment recognizes the principles or circumstances that alleviate the crime based on objective circumstances and considers the need for individual guidance of the perpetrator of the crime. In other words, the purpose of punishment is to achieve benefits to protect society and towards the welfare of society. The purpose of punishment is

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<sup>7</sup> Muladi dan Barda Nawawi Arief, *Teori Teori Kebijakan Hukum Pidana*, Alumni, Bandung, 1984, p. 32

<sup>8</sup> *Ibid*, p. 33

not retaliation against the perpetrator where the sanction is emphasized on its purpose, namely to prevent people from committing crimes.

## **Conclusion and Recommendation**

### **1. Conclusion**

Based on the analysis of the results of research and discussion, it can be concluded that the application of integrated assessment in law enforcement against narcotics abusers is as follows:

- a. The application of an integrated assessment is based on the provisions of Article 127 paragraph (2) and (3) of the Narcotics Law which require evidence for narcotics abusers in order to be rehabilitated. Its implementation is regulated through the Joint Regulation of 7 (seven) State Agencies as a technical guide in law enforcement against narcotics abusers so that it is synergistic and integrated. Through an integrated assessment, narcotics abusers can be placed early in the rehabilitation system while law enforcement continues. The implementation of an integrated assessment can be seen as a Restorative Justice approach to narcotics abusers, law enforcement continues and restoration of the condition of narcotics abusers can still be achieved.
- b. The implementation of integrated assessment in law enforcement against narcotics abusers still encounters various obstacles in its implementation. The dominant inhibiting factors are law enforcement factors and facilities and infrastructure factors. The law enforcement factor is due to the difference in perceptions between law enforcement officials in determining whether or not a narcotics abuser should be assessed.

### **2. Recommendation**

The suggestions that will be given regarding the implementation of integrated assessment in law enforcement against narcotics abusers are as follows:

- a. Law enforcement officials, especially investigators, should make the implementation of integrated assessment a law enforcement initiative in dealing with narcotics abusers, no longer just an option. With the existence of an integrated assessment, abusers, in order to get legitimacy on their level of dependence, are placed in the rehabilitation installation early so that their recovery can be achieved immediately while the law enforcement stage continues.
- b. In order to overcome various obstacles in implementing integrated assessment, it is necessary to hold frequent coordination meetings by 7 (seven) State Agencies that issue joint regulations as a means of consultation, coordination and harmonizing perceptions in law enforcement against narcotics abusers. So that there is no longer any difference in interpreting the provisions in the joint regulations in the handling of abusers and narcotics addicts.

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