

The Effectiveness of The Recommendations Of The Integrated Assessment Team (TAT) of The National Narcotics Agency of Bali Province as A Judge's Consideration In Granting Drug Case Decisions

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ABSTRACT

This study aims to analyze the procedure and effectiveness of the recommendations provided by the Integrated Assessment Team (TAT) of the National Narcotics Agency of Bali Province in determining rehabilitation for narcotics abusers. The research employs a normative legal method, incorporating a statute approach, case approach, and conceptual approach. The findings indicate that the TAT, consisting of a legal and medical team, conducts assessments to provide rehabilitation recommendations for narcotics abusers. The recommendations serve as evidence in court to help judges decide on rehabilitation for narcotics abusers, victims, and addicts. The research, which analyzed 10 narcotics cases, reveals that in 9 cases, the judges considered TAT's recommendations when issuing their verdicts. However, the judges' decisions did not always align with the content of the recommendations. This demonstrates that while the TAT's recommendations are effective in influencing judicial decisions, full alignment between recommendations and verdicts is not guaranteed. The study concludes with a suggestion for stronger inter-agency commitment to ensure that TAT's recommendations are consistently applied in legal proceedings. Additionally, it proposes the inclusion of norms related to integrated assessments in future revisions of Indonesia's Narcotics Law.

Keywords : integrated assessment, narcotics, judge's considerations, recommendations

INTRODUCTION

The development of drug abuse and illicit trafficking has become a worrying world problem, especially a serious threat to Indonesia. Indonesia is a place for the circulation of narcotics as well as their abuse both from within the country and from abroad. There has been an increase in narcotics circulation in the community, this can be seen from the increasing number of victims of narcotics abuse ranging from children to state officials. Victims of narcotics abuse are said to include children, teenagers, the younger generation, State Civil Apparatus (ASN), members of the TNI and Polri, regional heads, legislative members, community leaders to the household (Pasaribu, Siregar, Mulyadi, & Marlina, 2023).

Law enforcement against perpetrators of narcotics crimes must get appropriate punishments based on the judge's decision. The hope of the implementation of law enforcement is to be an antidote to illegal trade and narcotics trafficking, but it has not been as expected (Damanik, 2024). Every narcotics addict is a person who has the potential to suffer from addiction, drug addiction, and mental mental disorders, so they are entitled to rehabilitation efforts because every drug abuser has the right to recover and rebuild his life (Sari, Yuningsih, & Nurillah, 2020).

In an effort to overcome the problem of abuse and illicit circulation of narcotics, the government in its current development regarding narcotics crimes is regulated in Law No. 35 of 2009 concerning Narcotics. Basically, the sanctions regulated in the Narcotics Law adhere to the *double track system*, namely in the form of criminal sanctions and action sanctions (Astutuk, 2022). Criminal sanctions can be given as a form of law enforcement to dealers and dealers. Rehabilitation is a form of sanction of action, as stated in Article 54 of the Narcotics Law, which states that "narcotics addicts and addicts of narcotics abuse are obliged to undergo medical rehabilitation and social rehabilitation".

The government continues to strive to emphasize the aspect of demand reduction, namely reducing the number through more serious handling of addicts and narcotics abusers (Hernanda, 2024). In order to launch this step, a Joint Regulation was issued by the Chief Justice of the Supreme Court of the Republic of Indonesia, the Minister of Law and Human Rights of the Republic of Indonesia, the Minister of Social Affairs of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Chief of the National Narcotics Agency of the Republic of Indonesia, the Head of the National Narcotics Agency of the Republic of Indonesia concerning the Handling of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions. The regulation underlies the formation of the Integrated Assessment Team (TAT), which consists of members of the BNN, the Police, the Prosecutor's Office and Bappas. This team determines whether a person is declared an addict or a drug abuser or not (Ardi & Nurahman, 2017).

Based on the joint regulation, an Integrated Assessment Team was formed based at the central, provincial, district/city levels consisting of a medical team and a legal team tasked with carrying out an analysis of the role of arrested suspects at the request of investigators related to illicit narcotics trafficking, especially for addicts (Girsang & Simanjuntak, 2020). The medical team consists of doctors and psychologists while the legal team consists of the National Police, BNN, the Prosecutor's Office and the Ministry of Law and Human Rights. The results of the implementation of the integrated assessment are used as a completeness of the case file, namely a letter of recommendation that functions as information such as *visum et repertum* which helps law enforcers take the next step for addicts or abusers so that rehabilitation can be carried out (Iswara, 2019). For dealers who are addicts or abusers, they should also be given law enforcement in accordance with applicable provisions and can be given the right to rehabilitation in Correctional Institutions. Meanwhile, if the results of the integrated assessment state that the dealer is a dealer, the law enforcers can continue the process according to the provisions and the judge can give a prison sentence (Putri, Sahabuddin, & Nggeboe, 2024).

The National Narcotics Agency of Bali Province (BNNP Bali) since 2014 has formed an integrated assessment team and has issued recommendations for suspects who are requested to carry out an integrated assessment to find out the role of the suspect so that addicts can be recommended for medical rehabilitation and social rehabilitation according to the results of the medical team's examination. In fact, in the investigation process, the law does not require or bind investigators whose suspects are recommended for rehabilitation to immediately receive rehabilitation considering the ongoing legal process so that there is a vigilance of suspects fleeing while undergoing rehabilitation. So that the rehabilitation process is determined by the judge in the trial process (Bestia & Samputra, 2021).

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Based on this background, the problem can be formulated, namely what is the procedure for giving recommendations from the Integrated Assessment Team of the National Narcotics Agency of Bali Province? And what is the effectiveness of the Recommendations of the Integrated Assessment Team of the National Narcotics Agency of Bali Province as a consideration for judges in giving decisions on narcotics cases?

This study aims to find out and understand the procedure for giving recommendations from the Integrated Assessment Team of the National Narcotics Agency of Bali Province and to find out the effectiveness of the Recommendations of the Integrated Assessment Team of the National Narcotics Agency of Bali Province as a consideration for judges in making decisions on Narcotics cases.

RESEARCH METHOD

This research is a type of normative research that uses a statute approach, a case approach and a conceptual approach. The statute approach is the review of all laws and regulations related to the legal issues being handled. Case Approach is an approach that analyzes and examines cases using the judge's decision as a source of law that already has permanent legal force. The Conceptual Approach starts from the views and doctrines in legal science. The sources of legal materials in this thesis research include primary materials, secondary materials and tertiary legal materials. The technique of collecting legal materials used in this study is by literature study. Processing Techniques and Analysis of Legal Materials from the results of the research are then systematically compiled and analyzed descriptively so that conclusions can be drawn.

RESULT AND DISCUSSION

Procedure for Giving Recommendations from the Integrated Assessment Team of the National Narcotics Agency of Bali Province

The process of conducting an assessment by the integrated assessment team is a step to find out the extent of addiction and the role of abusers in narcotics crimes. In the Joint Regulation of the Chief Justice of the Supreme Court of the Republic of Indonesia, the Minister of Law and Human Rights of the Republic of Indonesia, the Minister of Health of the Republic of Indonesia, the Minister of Social Affairs of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Chief of the National Police of the Republic of Indonesia, the Head of the National Narcotics Agency of the Republic of Indonesia concerning Number: 01/PB/MA/III/2014, Number: 03 of 2014, Number: 11/Year 2014, Number: 03 of 2014, Number: Per-005/A/JA/03/2014, Number: 1 of 2014, Number: Perber/01/III/2014/BNN concerning the Handling of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions, one of which regulates the assessment mechanism for victims of narcotics abuse.

In principle, the act of using and abusing narcotics for oneself is a criminal act, so that the perpetrator should be subject to legal proceedings as well as legal proceedings for other criminal cases. However, for now, law enforcement against addicts and drug abusers for themselves has not always used penal means, but uses non-penal means, such as prostitution and social education in order to develop social responsibility of community members (Abintoro, 2017).

The increasing cases of narcotics abuse in Indonesia is currently a worrying situation and condition. Efforts to overcome the problem of narcotics crime are not enough only with the use of criminal sanctions but also need to use other approaches. For narcotics addicts, for example, the addiction or addiction aspect of narcotics needs

to use another approach, namely medical and social rehabilitation. Rehabilitation is one of the depenalization efforts in cases of narcotics abuse, where this action reduces the punitive aspect in criminal law. In addition, medical rehabilitation is believed to be one way to break the chain of narcotics circulation by eliminating the addiction aspect for its users (Afrizal & Anggunsuri, 2019).

The Integrated Assessment at BNNP Bali is carried out through a series of processes, starting from the receipt of the Integrated Assessment application file from the Investigator who handles the case of Narcotics Crimes or the Public Prosecutor for the purpose of prosecution and the Judge for the purpose of examination at the court session to the Chairman of the Integrated Assessment which is received by the secretariat of the Integrated Assessment Team until the results of the recommendation from the assessment application are issued.

Applicants who have submitted an application for integrated assessment are required to attach the completeness of the file that will be used for the implementation of integrated assessment activities. The file submitted by the applicant will be verified by the secretary or admin of TAT BNNP Bali. The Medical Assessment and Legal Assessment Team is tasked with carrying out an analysis of the role of the suspect, then a case conference is carried out together with the Medical Team and the Legal Team to analyze the case to formulate recommendations.

The issuance of the Integrated Assessment Recommendation Letter pays attention to several things, namely: (Hutabarat, 2024)

1. The role of the suspect and/or defendant as a Drug Abuser or Addict, Victim of Narcotics Abuse, Abuser or Addict is involved in the illicit circulation network of Narcotics and Distributors or dealers.
2. Placement of Suspects and/or Defendants as:
 - a. Abusers, Addicts or Victims of Narcotics Abuse who are not involved in the network can be given Rehabilitation at a Rehabilitation Institution owned by BNN or a BNN partner owned by a government agency that meets rehabilitation standards;
 - b. Abusers, Addicts or Victims of Abuse who are involved in the network are given Rehabilitation in Prisons or Detention Centers and the legal process continues;
 - c. Dealers or bookmakers do not get legal proceedings to continue.
3. The type of rehabilitation and the recommended rehabilitation program period refer to the results of the Integrated Assessment Report.

An integrated assessment recommendation letter issued by the Bali Provincial BNN within a maximum period of 6 (six) days and given to the Investigator. The Recommendations of the Integrated Assessment if attached to the case file can be considered by the Judge in issuing his verdict against narcotics abusers, narcotics addicts, victims of narcotics abuse, as well as paying attention to the recommendations given by the integrated assessment team, while still considering the juridical and non-juridical sides.

Effectiveness of the Recommendations of the Integrated Assessment Team of the National Narcotics Agency of Bali Province as a Judge's Consideration in Giving Decisions on Narcotics Cases

The recommendations of the National Narcotics Agency's Integrated Assessment Team against suspects or defendants are used as evidence in the trial of narcotics crimes. In the case of the recommendation of the Integrated Assessment Team as evidence of the letter, it refers to the provisions of Article 187 letter a of the Criminal Procedure Code

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with the information that the Recommendation of the BNN Integrated Assessment Team is submitted to the judge in the form of a certificate and included in the minutes of the event (Syahwal, 2024). Then, the recommendation of the Integrated Assessment Team can be a tool of evidence for expert testimony, if the defendant's lawyer presents a doctor who conducts an assessment on the suspect/defendant to give his statement in court as stipulated in Article 65 of the Criminal Procedure Code where the suspect or defendant has the right to submit witnesses or experts who mitigate against him.

Based on the case researched from the court decision where the suspect has been subjected to an integrated assessment, the result is that the judge's decision is different, this is indeed in accordance with the facts of the trial where the integrated assessment is considered by the judge can be described as follows:

1. The integrated assessment recommendation letter can be used as a consideration by the judge in the legal facts revealed at the trial, to be the basis for the judge to consider the defendant including in the form of narcotics abuse for himself.
2. The existence of an integrated assessment recommendation basis can fulfill the elements of Article 127 Paragraph (1) letter a of Law Number 35 of 2009 concerning Narcotics, namely "abusing class I narcotics for oneself".
3. That in order to be able to implement the recommendations as stated in the Bali Province Integrated Assessment Team (TAT) letter mentioned above, the Panel of Judges needs to first consider the provisions as stipulated in Articles 54, 55, 10, and 127 of Law Number 35 of 2009 concerning Narcotics and SEMA Number 4 of 2010 concerning the Placement of Abuse, Victims of Abuse and Narcotics Addicts into Medical Rehabilitation and Social Rehabilitation Institutions jo. SEMA Number 03 of 2011 about the Placement of Victims of Narcotics Abuse in Medical Rehabilitation and Social Rehabilitation Institutions.
4. That in order to be able to fulfill the recommendation of the BNNP Bali Integrated Assessment Team, based on the 2nd point of SEMA Number 4 of 2010 concerning the Placement of Narcotics Abuse, Victims of Abuse and Addicts into Medical Rehabilitation and Social Rehabilitation Institutions, the application of the penalty as referred to in Article 103 letters a and b of Law Number 35 of 2009 concerning Narcotics can only be imposed on the classification of criminal acts as follows:
 - a. The defendant at the time of arrest by National Police investigators and BNN investigators was in a state of being caught;
 - b. At the time of being caught, evidence of use was found for 1 (one) day;
 - c. Positive laboratory test letter using narcotics based on the investigator's request;
 - d. A certificate from a government psychiatrist/psychiatrist appointed by the Judge is required;
 - e. There is no evidence that the person concerned is involved in the illicit circulation of narcotics.

There is a difference in the judge's decision on the case conducted by the research that the power of the judge is fully appropriate based on Article 53 of the Law on Judicial Power. The above is the legal basis for a judge in carrying out his duties to decide a case, that it must be based on various considerations that can be accepted by all parties and not deviate from the existing legal principles, which is called legal considerations or legal reasoning.

The judge in imposing his verdict against narcotics abusers, narcotics addicts, victims of narcotics abuse, also pays attention to the recommendations as mentioned in the BNNP Bali Integrated Assessment Recommendation Letter. In making his decision,

the judge considered the juridical and non-juridical sides. The judge who looked at the BNNP Bali Integrated Assessment Recommendation Letter included juridical and non-juridical considerations.

Although there have been various policies that have been born for the placement of suspects or defendants in medical rehabilitation and social rehabilitation institutions, as well as guarantees for rehabilitation of abusers, addicts and victims of narcotics abuse in the Narcotics Law, but in practice often investigators, public prosecutors and judges do not implement the policies that have been made, even judges in making decisions Against the defendant who had previously carried out an integrated assessment process was uncovered by the investigation, still imposing prison sanctions on narcotics abusers for themselves as stipulated in Article 127 of the Narcotics Law (Werri, Madjid, & Fahmiron, 2023).

Based on the analysis conducted from 10 (ten) cases conducted by the research, 9 (nine) cases use integrated assessments as a judge's consideration in giving verdicts on narcotics cases to abusers or addicts. However, the judge in giving a verdict is not necessarily in accordance with the content of the recommendations of the BNNP Bali integrated assessment team. So that the Recommendation of the Integrated Assessment Team of the National Narcotics Agency of Bali Province is effective as a consideration for judges in giving decisions on narcotics cases.

CONCLUSION

The procedure for giving recommendations from the Integrated Assessment Team of the National Narcotics Agency of Bali Province Integrated Assessment is the result of an assessment by the legal team and the medical team which is carried out a joint case discussion and the results are outlined in the integrated assessment recommendation letter. The recommendation letter of the integrated assessment team issued by the Bali Provincial BNN, if it has been attached to the case file, can be considered by the Judge in issuing his verdict against narcotics abusers, narcotics addicts and victims of narcotics abuse. The recommendation of the Integrated Assessment Team of the National Narcotics Agency of Bali Province is effective as a consideration for judges in giving decisions on narcotics cases. This is based on 10 (ten) cases conducted by the research, 9 (nine) cases use integrated assessments as a judge's consideration in giving a verdict. However, the judge's decision was not necessarily in accordance with the content of the recommendations of the BNNP Bali integrated assessment team. Suggestions on the need for inter-agency commitment so that recommendations related to rehabilitation, both medical and social, from the Integrated Assessment Team of the National Narcotics Agency of Bali Province can be implemented in accordance with applicable regulations. Norms related to integrated assessments to be included in the substance in the upcoming Narcotics Law.

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