



The urgency of integrated assessment analysis results in rehabilitation ventictions for abuse users, additional and victims of drug abuse

Ricky Febriandi¹, Mohd Din², Darmawan²

¹ Student Law Faculty, Universitas Syiah Kuala, Indonesia, Banda Aceh, Indonesia

² Lecturer, Faculty of Law, Universitas Syiah Kuala, Indonesia, Banda Aceh, Indonesia

Abstract

The Integrated Assessment is a strategy to streamline the enforcement of narcotics crimes by reducing demand rates through rehabilitation efforts for narcotics addicts and abusers. The results of the study concluded that in deciding cases the judge considers public welfare, so every court decision taken has the value of legal certainty, justice, and expediency which are part of the consequences of the decision. In cases of criminal acts of narcotics abuse, judges need to carefully examine and consider the results of the Integrated Assessment. The Integrated Assessment is able to touch legal and medical aspects. Through an integrated assessment the aspects of protection/coaching of individuals are given more attention. The rehabilitation program provides an opportunity for addicts and narcotics abusers to find a 'way back' in their lives and ultimately leads to the achievement of criminal goals, namely restorative justice for these narcotics abuse addicts. And as a whole this Integrated Assessment is relevant to the development of patterns of dealing with abuse and illicit trafficking of narcotics in the international world which are able to reduce demand for narcotics (demand reduction) in transnational crimes. However, in practice, the Public Prosecutor as the executor of the judge's decision experiences difficulties when carrying out executions for the rehabilitation of perpetrators of narcotics abuse. Such is the case in a decision Number 141/Pid. Sus/2021/PN Bir concerning drug abuse.

Keywords: Narcotics, analysis of the integrated assessment team, rehabilitation

Introduction

Narcotics Crime is the most prominent crime and the most widely processed by law, and is the largest contributor to general criminal cases and the largest contributor to prison residents throughout Indonesia, resulting in overcrowding of the capacity of Correctional Institutions, especially Drug Users.^[1]

This happens because the concept of punishment applied so far is related to abusers, addicts and victims of narcotics abuse, still using the concept of retributive punishment where imprisonment is still the main punishment in our criminal justice system. Even though criminal punishment should be used as a last resort in terms of law enforcement (ultimum remedium principle). In Law Number 35 of 2009 concerning Narcotics, there are already rules from each sub-system that regulate rehabilitation for abusers, addicts and victims of narcotics abuse, but the implementation is still not optimal and multiple interpretations of these provisions still arise. So that in the implementation of law enforcement for abusers, addicts and victims of narcotics abuse, prison sentences are still carried out and they are considered as perpetrators of crimes.^[2]

With the existence of this Narcotics Law, the use of narcotics is limited, because narcotics can only be used for the benefit of health science services and/or the development of knowledge and technology. Moreover, in Article 8 paragraph (1) there is a provision that class I narcotics are prohibited from being used for the benefit of health services. Thus, some narcotics may be used for health services and some may not. but only for science and technology.^[3] As is the case with the importance of regulation regarding the use of narcotics, the widespread use of narcotics has led to the need to regulate law enforcement

provisions that can accommodate and meet the needs of law enforcement against this crime. In the Narcotics Law there are regulations regarding the types of criminal acts, the criminal provisions contained in the Narcotics Law are divided into criminal provisions aimed at dealers and criminal provisions aimed at abusers.^[4]

In addition to differences in criminal provisions, the Narcotics Law also includes differences in the sanctions imposed. The sanctions regulated in the Narcotics Law range from death penalty, life imprisonment, prison fines to the possibility of sanctions in the form of rehabilitation. Apart from that, the Narcotics Law also regulates procedures for resolving narcotic crimes starting at the investigation stage, which include arrangements regarding wiretapping, confiscation of evidence, and procedures in court trying to guarantee the safety of the identity of the complainant. Arrangements for prosecution and regarding investigations, examinations at court hearings, although regulated in the Narcotics Law, still refer to the provisions in Law No. 8 of 1981 concerning Criminal Procedure Code (hereinafter referred to as the Criminal Procedure Code) as explained in Article 73 of the Narcotics Law.^[5]

Today, the drug problem that continues to occur has sparked various efforts to overcome it, not only massive supply reduction and demand reduction efforts but also harm reduction efforts. One form of harm reduction that is also related to demand reduction is rehabilitation for addicts and victims of drug abuse. Drug rehabilitation is one of the treatment efforts to free drug addicts from dependence. Based on Law No. 35 of 2009 article 1 number 13 what is meant by drug addicts are people who use or abuse narcotics and are in a state of dependence on narcotics both physically and psychologically.^[6]

Drug rehabilitation in Indonesia is outpatient and inpatient, some are privately owned and some are government owned. The National Narcotics Agency (BNN) as the leading sector in drug handling has several inpatient rehabilitation centers, one of which is the BNN Rehabilitation Center (Babes Rehab BNN). Babes Rehab BNN is BNN's first and largest rehabilitation center. The place serves rehabilitation for drug addicts and abusers, both those who come voluntarily and those who take legal cases (compulsory).^[7]

For Compulsory, the period of undergoing rehabilitation is counted as a period of serving a sentence. Instead of people who are undergoing trial and detention in drug cases in prison, they will be placed in a rehabilitation center. Of course not all those who have drug cases can be in a rehabilitation center, this really depends on the court decision given by the judge & the results of the integrated assessment and the results of the assessment from the Integrated Assessment Team (TAT). The results of an integrated assessment (TAT) are very important because it will determine whether drug abusers are included as addicts who must be rehabilitated or as criminals who must be imprisoned. The TAT Assessment is based on joint regulations from the Chairman of the Supreme Court of the Republic of Indonesia, Minister of Law and Human Rights of the Republic of Indonesia, Minister of Health of the Republic of Indonesia, Minister of Social Affairs of the Republic of Indonesia, Attorney General of the Republic of Indonesia, Head of the Indonesian National Police, Head of the National Narcotics Agency of the Republic of Indonesia. No. 01/PB/MA/III/2014, No. 03 of 2014, No. 11 of 2014, no. 03 of 2014, no. PER-005/A/JA/03/2014, No. 1 of 2014, No. PERBER/01/III/2014/BNN concerning Handling of Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions.

Not only the results of the TAT assessment can place a person in rehabilitation, but the results of a judge's decision can also place a person who has a legal case in rehabilitation as a form of serving a sentence. Based on the criminal provisions in Article 127 of Law No. 35 of 2009 it can be concluded that the punishment that can be imposed on narcotics abusers is imprisonment. Article 127 paragraph (2) also states that:^[8]In deciding the case as referred to in paragraph (1), the judge must pay attention to the provisions referred to in Article 54, Article 55 and Article 103.

However, in applying criminal sanctions in the form of imprisonment, the law requires judges to pay attention to the provisions referred to in Article 54, Article 55 and Article 103. Nevertheless, the judge in deciding this case only decides based on the Narcotics Law and ignores the results of the assessment. TAT. Even though the results of the TAT assessment are very useful for judges to be able to differentiate the accused into the category of abusers, addicts or victims of narcotics abuse.

On the other hand, the Public Prosecutor (JPU) as the executor of the judge's decision experienced difficulties when carrying out executions for the rehabilitation of perpetrators of narcotics abuse. Such is the case in a decision Number 141/Pid.Sus/2021/PN Bir concerning drug abuse. In the excerpt of the decision, the judge sentenced the defendant to imprisonment for 1 (one) year and 3 (three) months and ordered the defendant to undergo treatment and care through medical and social rehabilitation at the Aceh Government Psychiatric Hospital for 8 (eight) months calculated with the sentence imposed. Then the medical

conclusion for the defendant was that after undergoing treatment for 6 months the defendant was declared cured and could be sent home. This became a dilemma and an obstacle for the prosecutor when carrying out the judge's decision which decided 8 (eight) months of treatment while the medical concluded that after 6 months the defendant had recovered. Thus, there are still two months remaining from the judge's decision against the defendant for imprisonment and treatment. This is a dilemma for the public prosecutor who must continue to carry out the judge's decision by carrying out treatment until the end of 8 (eight) months or repatriating when the defendant is declared cured, namely for 6 (six) months of treatment. Based on the description above, it is interesting to explore further related to the Implementation of Rehabilitation Sanctions for Narcotics Abuse Perpetrators. Based on the empirical and juridical facts above, it is interesting to study in more detail related to the basis for the judge's consideration of imposing a rehabilitation sentence on a defendant as a narcotics abuser and reviewing the implementation of a rehabilitation decision by the public prosecutor for a defendant for abusing narcotics.

Research method

This type of research is empirical juridical. This type is legal research regarding the enactment or implementation of normative legal provisions in every particular legal event that occurs in society. This type of research is used because research is directly related to the object to be studied. This type of research was carried out by analyzing data and interviews. This research is included in legal research which aims to study legal phenomena and efforts to analyze them and then find solutions to existing legal problems.^[9] The approach in this study uses primary data through interviews with respondents and informants and examines several laws related to the cases in this study.^[10]

Results and Discussion

The Authority of Judges in Rehabilitation Verdicts and the Importance of Integrated Assessment Results

The imposition of a decision is one of the stages in the law enforcement process that attracts the most attention of the public. Regarding what decision the panel of judges will pass, it depends on the results of deliberations based on the indictment associated with the evidence and everything that was revealed during the trial process. In connection with the process of imposing a decision by the panel of judges, the provisions in Article 182 paragraph (6) of the Criminal Procedure Code.^[11]

Judges according to the Criminal Procedure Code are state officials who are authorized by law to try. (Law on Narcotics, Law No. 35 of 2009). The judge's task is to uphold law and justice based on Pancasila through a decision on a case before him, so that the decision reflects the feelings of justice for the nation and people of Indonesia. Judges in examining, hearing and deciding cases must be in accordance with the provisions of laws and regulations and must explore, follow and understand the legal values and sense of justice that live in society. In exploring the legal values that exist in society, judges must enter the midst of society to know, feel and be able to explore the feelings of law and the sense of justice that live in society. The words "dive into the midst of society cannot be interpreted literally, so it is necessary to study and master techniques or

legal discoveries in imposing decisions on criminal justice in court practice.^[12]

In narcotics cases, especially those involving narcotics addicts, the role of the judge becomes very important to determine whether the addict can be rehabilitated or not. Regulations regarding the authority of judges to be able to provide rehabilitation to narcotics addicts can basically be seen from two aspects, namely the authority that exists with judges to be able to make decisions in the judicial process and the authority in the final decision which can be in the form of a rehabilitation decision or a rehabilitation decision. Medical rehabilitation is a process of integrated treatment activities to free addicts from narcotics dependence. While social rehabilitation is a process of recovery activities in an integrated manner, both physically, mentally and socially so that former narcotics addicts can return to carrying out social functions in community life. This confirmation regarding the existence of medical and social rehabilitation is regulated in Article 54 of Law Number 35 of 2009 concerning Narcotics which stipulates that "narcotics addicts and victims of narcotics abusers are required to undergo medical and social rehabilitation". Furthermore, Article 127 paragraph (3) of the law states that in the event that a abuser can be proven or proven to be a victim of Narcotics abuse, the abuser is required to undergo medical rehabilitation and social rehabilitation.

The obligation to undergo rehabilitation is emphasized through Article 3 paragraph (1) of Regulation of the Head of the National Narcotics Agency Number 11 of 2014 concerning Procedures for Handling Suspects and/or Accused Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions. The regulation stipulates that narcotics addicts and victims of narcotics abuse without rights and against the law as suspects and/or defendants in narcotics abuse who are undergoing the process of investigation, prosecution and trial in court are given treatment, care and recovery in rehabilitation institutions. This opens up opportunities for people who are in legal proceedings related to narcotics cases to apply for medical and social rehabilitation.

Article 103 of Law Number 35 of 2009 concerning Narcotics stipulates that judges can decide or determine narcotics addicts to undergo medical rehabilitation and social rehabilitation. The above article shows that medical rehabilitation and social rehabilitation are one of the decisions that can be made by judges in cases of drug abuse. Through a Joint Regulation of the Chief Justice of the Supreme Court of the Republic of Indonesia, Minister of Law and Human Rights of the Republic of Indonesia, Minister of Health of the Republic of Indonesia, Minister of Social Affairs of the Republic of Indonesia, Attorney General of the Republic of Indonesia, Head of the Indonesian National Police, Head of the National Narcotics Agency of the Republic of Indonesia. No.: 01/PB/MA/III/2014, No.: 03 of 2014, no.: 11 of 2014, No.: 03 of 2014, No.: PER-005/A/JA/03/2014, No.: 1 of 2014, No.: PERBER/01/III/2014/BNN concerning Handling of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions stipulates that drug addicts no longer lead to criminal sanctions in prison but instead lead to rehabilitation, because sanctions for addicts Agreed on rehabilitation.

Based on the Joint Regulations, it is regulated regarding the assessment process that must be carried out first to

determine whether or not the suspect or defendant can undergo rehabilitation. According to this regulation, an Integrated Assessment Team was formed which was based at the central level, provincial level, district/city level consisting of a team of doctors and a team of lawyers who were tasked with carrying out an analysis of the role of suspects who were arrested at the request of investigators. The team then carried out legal analysis, medical analysis and psychosocial analysis and made a rehabilitation plan that included how long rehabilitation would take.

The results of the assessment serve as completeness of the case file which functions as information such as post mortem et repertum. The results of the analysis will sort out the role of the suspect as a abuser, abuser who is also a dealer or dealer. After going through the assessment process, drug addicts will end up in a rehabilitation center. The assessment process occupies an important position to determine whether or not narcotics abusers can carry out medical rehabilitation and social rehabilitation. The law provides an opportunity for every addict and victim of narcotics abuse to undergo rehabilitation. Medical and social rehabilitation is believed to be an effort that can break the chain of narcotics circulation through handling addicts and victims of abusers. This effort of course requires the need to optimize the assessment process for people who are arrested and used as defendants in narcotics cases. So that from these results it can be clearly seen that a person who is arrested or caught red-handed by law enforcement is a dealer, courier, abuser as well as a dealer, addict, or victim of narcotics abuse.

To be able to determine someone who is in legal proceedings due to a narcotics case undergoing medical rehabilitation is determined through an assessment process with predetermined conditions. In conducting an assessment of narcotics addicts as suspected narcotics abusers, an Integrated Assessment Team (TAT) was formed. The Integrated Assessment Team consists of: a) Doctors Team which includes doctors and psychologists; b) The Legal Team, which consists of elements from the National Police, BNN, Attorney General's Office, and the Ministry of Law and Human Rights. The Integrated Assessment Team has the authority to:

1. At the request of investigators to analyze the role of someone who is arrested or caught red-handed as a victim of narcotics abuse, narcotics addicts, or narcotics dealers
2. Determine the criteria for the severity of narcotics use according to the type of substance consumed, the situation and conditions when they were arrested at the crime scene
3. Recommend therapy and rehabilitation plans for narcotics addicts and victims of narcotics abuse.

The legal team is tasked with conducting an analysis of the link between the illicit traffic of narcotics, precursors and narcotics abuse by coordinating with the investigators handling the case. The results of the analysis by the legal team in this assessment process are useful in determining that the person concerned is not involved in the illicit trafficking of narcotics. Through this assessment, at the request of investigators, the legal team can conduct an analysis of the role of someone who is arrested or caught red-handed using narcotics as an addict or as a dealer.^[13]

Examination in this assessment process is very important to determine whether a suspect or defendant is a narcotics addict and a victim of narcotics abuse, for the rehabilitation process. However, in many cases addicts are also involved as dealers or couriers so that medical and social rehabilitation is not possible. Rehabilitation of narcotics addicts is carried out in hospitals appointed by the minister. For suspects or defendants who, based on the decision of the Integrated Assessment Team, are undergoing medical rehabilitation, they will then be handed over to the designated institution.

Decision Number 141/Pid.Sus/2021/PN Bir concerning Narcotic Abuse

The assessment process carried out on a suspect who is a narcotics addict at the stage of investigation or prosecution generally ends with a recommendation to undergo medical and social rehabilitation. As long as the requirements are fulfilled that the person concerned is a pure user who is not involved in narcotics trafficking. Through TAT analysis it can be seen the severity of a person's addiction to narcotics, in addition to his involvement in the use of these narcotics. This shows that from the point of view of the implementation of the assessment it is not a problem that could hinder the implementation of the medical rehabilitation and social rehabilitation processes.^[14]

Despite having an important role in a decision, the TAT analysis should be prioritized by the judge in considering his decision. But on the contrary what happened, judges' considerations were sometimes less than optimal in TAT analysis. This can happen because the TAT analysis cannot be interpreted directly, so it requires expert testimony during the examination before the court. One of them is in the narcotics case which was decided through Decision Number 141/Pid.Sus/2021/PN Bir concerning the Abuse of Narcotics. The decision explained that the Public Prosecutor had submitted documentary evidence attached to the case file, one of which was the Recommendation on the Results of the Integrated Assessment, number: TAT/04/III/2021/BNNK which was carried out by the Assessment Team. The recommendation from the assessment concluded that the suspect had no indication of involvement with the network as a producer, dealer and or distributor, both national and international. That the suspect can undergo treatment/medication with symptomatic therapy, counseling, motivational therapy at the Inpatient Rehabilitation Institution after undergoing a legal process.^[15]

Through these considerations and various other considerations the judge decided to sentence the defendant to imprisonment for 1 (one) year and 3 (three) months. In addition, ordered the Defendant to undergo treatment and care through medical and social rehabilitation at the Aceh Government Psychiatric Hospital, at Jalan Dr. T. Syarief Thayeb Number 25, Banda Aceh City, Aceh Province for 8 (eight) months which is calculated by the sentence imposed. At first glance, it shows that the judge decided the case was in accordance with the applicable legal regulations. However, it is different when the execution of a decision is carried out which is the duty of the public prosecutor (JPU). When the defendant underwent rehabilitation according to the decision, the doctor who treated and handled the rehabilitation gave his medical conclusion which stated that after undergoing treatment for 6 months the defendant was

declared cured and could be sent home. Thus, there are still two months remaining from the judge's decision against the defendant for imprisonment and treatment. This is a dilemma for the public prosecutor who must continue to carry out the judge's decision by carrying out treatment until the end of 8 (eight) months or repatriating when the defendant is declared cured, namely for 6 (six) months of treatment.^[16]

Referring to the theory of the judge's consideration which explains that the meaning of the judge's consideration is a stage where the panel of judges considers the facts revealed during the trial process. The judge's consideration is also one of the most important aspects in determining the realization of the value of a judge's decision which contains justice and contains legal certainty, besides that it also contains benefits for the parties concerned so that the judge's consideration must be addressed carefully, properly and carefully.^[17] Based on the above, the judge in deciding the case should have met the standard of understanding the judge's consideration.

Supposedly in the case of the criminal act of narcotics abuse described above, the judge needs to carefully examine and consider the results of the Integrated Assessment that has been attached by the public prosecutor during the examination. Even if the results of the assessment require a more detailed interpretation such as the length of time needed based on the type of therapy concluded in the assessment, the judge should be able to ask the public prosecutor to present experts so that the results of the assessment can be properly interpreted.^[18]

On the other hand, the recommendations for the results of an integrated assessment should also contain a statement from a government psychiatrist/psychiatrist appointed so that in decisions it does not only tend to be classified as being considered when caught in the act with evidence under the provisions in SEMA 04 of 2010 and the defendant was not involved in the illicit trade of narcotics. Thus, investigators and public prosecutors can provide recommendations as well as strengthen the recommendations of the team of doctors for the judge's decision regarding the placement of the accused in a medical and social rehabilitation institution and how long it will take for the accused to undergo rehabilitation as a punishment he must serve.^[19]

The judge's considerations will be contained in the decision, a good decision is a decision that fulfills the 3 elements of aspects in a balanced manner, namely as follows: a. Legal certainty; b. Justice; and c. Benefit. However, the case decided by Decision Number 141/Pid.Sus/2021/PN Bir concerning Narcotics Abuse is deemed not to fulfill the elements mentioned above so that the decision can be said to be a decision which is not ideal. Basically, in making a decision a judge should weigh and decide on a case by taking into account the principles of justice, legal certainty and expediency so that the decision issued becomes an ideal decision.

Conclusion

Narcotics abusers who undergo legal proceedings at the stage of investigation or prosecution or after a court decision can undergo medical rehabilitation and social rehabilitation after going through an assessment process. The assessment process is carried out by an Integrated Assessment Team consisting of a Legal Team and a Team of Doctors. Through the Integrated Assessment Team it will be determined

whether a suspect or defendant who abuses narcotics is a narcotics dealer or addict or a victim of narcotics abuse and through the Medical Team will be tested for the content and severity of narcotics use. The Integrated Assessment is a new paradigm in handling narcotics crime cases in Indonesia. The integrated assessment team is located at the central level, provincial level, district/city level consisting of a team of doctors and a team of lawyers. The results of the assessment are used as completeness of the case file and function as information such as visum et repertum.

Decision Number 141/Pid.Sus/2021/PN Bir concerning Narcotics Abuse. The interview was conducted in March 2023 at the Aceh Psychiatric Hospital.

19. Supreme Court Circular Number 4 of 2010 concerning Placement of Abuse, Victims of Abuse and Narcotics Addicts in Institutions for Medical Rehabilitation and Social Rehabilitation.

References

1. Speech by the Head of the Aceh High Prosecutor's Office at the Inauguration Ceremony of the Adhyaksa Narcotics Rehabilitation Center in Bireuen Regency, Bireuen, 2022.
2. Mahrus Ali. *Dasar-Dasar Hukum Pidana*, Sinar Grafika, Jakarta, 2015, 23.
3. Siswanto Sumarso. *Penegakan Hukum Psicotropika dalam Kajian Sosiologi Hukum*, Rajawali Pers, Jakarta, 2011, 44.
4. Eva Achjani Zulfa. *Pergeseran Paradigma Pemidanaan*, Lubuk Agung, Bandung, 2011, 52.
5. Bambang Waluyo. *Pidana dan Pemidanaan*, Sinar Grafika: Jakarta, 2008, 33
6. Syaiful Bakhri. *Tindak Pidana Narkotika dan Psicotropika, Suatu Pendekatan Melalui Kebijakan Hukum Pidana*, Gramata Publishing, Jakarta, 2012, 24.
7. Ratna WP. *Aspek Pidana: Penyalahgunaan Narkotika*, Legality, Yogyakarta, 2017, 89.
8. Amiruddin. *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada, Jakarta, 2018.
9. Djoko Prakoso. *Masalah Pemberian Pidana Dalam Teori Dan Praktek Peradilan*. Balai aksara, Jakarta, 2010, 46.
10. Article 1 Point 17 of Law No.35 of 2009 Concerning Narcotics (Republic of Indonesia, 2009).
11. Ratna WP. *Aspek Pidana Penyalahgunaan Narkotika: Rehabilitasi Versus Penjara Legaliti*, Yogyakarta, 2017, 35.
12. Dyah Ochtorina Susanti dan A'an Efendi. *Penelitian Hukum (Legal Research)*. Sinar Grafika. Jakarta, 2014, 65.
13. Peter Mahmud Marzuki. *Penelitian Hukum*. Kencana. Jakarta, 2008.
14. Joenaedi Efendi dan Johny Ibrahim, *Metode Penelitian Hukum Normatif dan Empiris*, Prenadamedia Group, Depok, 2018, 48.
15. Ahmad M Ridwan Saiful Hikmat. *Tinjauan Mengenai Sanksi Rehabilitasi Bagi Penyalahguna Narkotika dalam Konteks Pembaharuan Hukum Pidana*, *Jurnal Pemuliaan Hukum*, 2021:3(2):39-64. doi: 10.30999, 2021. 20.
16. Anak Agung Sagung Istri Brahmanda Febriyanthi dkk. *Tinjauan Mengenai Sanksi Rehabilitasi Bagi Penyalahguna Narkotika dalam Konteks Pembaharuan Hukum Pidana*, *Jurnal*, Program Kekhususan Hukum Pidana Fakultas Hukum Universitas Udayana, 2021, 99.
17. Sri Mulyati Chalil. *Penerapan Sanksi Rehabilitasi Bagi Penyelah Guna dan Pecandu Narkotika*, *Jurnal*, Fakultas Hukum Universitas Langlangbuana, 2020.
18. dr. Arif Dian, Dian is a doctor at the Aceh Psychiatric Hospital who handles the rehabilitation of suspects in narcotics cases which were terminated through