

The Synergy Between the Indonesian National Narcotics Agency Function and the Police Function in Handling Criminal Acts of Narcotics Abuse

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ABSTRACT

Various efforts to prevent the abuse of narcotics committed by adolescents, children, and adults and eradicate narcotics trafficking have been handled by the National Narcotics Agency and the Police. The National Narcotics Agency has the authority to carry out investigations and examinations. The Police can also have the same authority as the National Narcotics Agency in carrying out their functions. In this regard, this study examines 1) the function of the National Narcotics Agency and the Police in handling criminal acts of narcotics and 2) the synergy of the National Narcotics Agency functions with the Police functions in investigating and examining the cases of criminal acts of narcotics. To achieve the objectives of this study, a normative legal research method is used in examining the object of research. In addition, there are two approaches used, such as statutory and conceptual approaches. The results showed that the function of the National Narcotics Agency is to become an institution that prevents and eradicates narcotics abuse. Meanwhile, the function of the Police is as an institution carrying out arrests, investigations, and examinations of perpetrators of criminal acts of narcotics abuse and eradicating illicit narcotics trafficking. The synergy between the National Narcotics Agency and the Police is manifested in coordination in handling criminal cases of narcotics, starting from investigations, examinations, assessment of perpetrators to the process of escorting, trials, and executions.

Keywords: National Narcotics Agency (BNN), Police, Criminal, Narcotics.

1. INTRODUCTION

Legal protection for Indonesian citizens is stipulated in Article 1, point 3 of the 1945 Constitution of the Republic of Indonesia, which stipulates: "The State of Indonesia is a Rule of Law." The abuse of narcotics has encouraged the circulation of illicit narcotics, which is increasingly rampant and extends to an international dimension. Therefore, there is a need for efforts to prevent and combat the narcotics distribution in question and to eradicate illicit narcotics trafficking given the progress and development of communication, information, and transportation in the current era of globalization (Lydia Harlina Marton, 2006: 11). Law Number 35 of 2009 concerning Narcotics was formed because users misused the narcotics themselves. In other words, narcotics are intended for health services, medicine, and science. Thus the drug is not to be consumed excessively without any doctor's prescription, self-control, and at the same time without supervision that triggers a condition of dependence on drugs which is very detrimental to the user.

In the general provisions of Article 1 of Law Number 35 of 2009 concerning Narcotics, the definition of narcotics comprises:

Narcotics in this Law are defined as 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 lead to dependence, which can be divided into groups as attached in this Law (Ruslan Renggong, 2016: 121).

In Indonesia, in the laws and regulations of the State of Indonesia, the term 'criminal offense' is generally used (Hartono, 2012: 17). In addition, Indonesia is still dominated by opium problems or excessive addiction. This trend continues to grow until it reveals that the circulation of narcotics and illegal drugs has a particular route. Law enforcement in criminal cases of narcotics trafficking is stringent. This occurs because the illicit trafficking of narcotics is a criminal offense; "A criminal act is an act which is a violating act, and anyone who violates the prohibition shall be subject to criminal sanctions (Moeljatno, 2000: 69)."

The formation of the Narcotics Law has significant underlying objectives, namely:

- a. To ensure the availability of narcotics for the benefit of health services and/or the development of science and technology;
- b. To prevent, protect, and save the Indonesian nation from narcotics abuse;
- c. To eradicate the illicit trafficking of narcotics and narcotics precursors; and
- d. To ensure the arrangement of medical and social rehabilitation efforts (Moeljatno, 2000: 61).

The National Narcotics Agency considers the four aspects above, starting from the first, namely ensuring the availability of narcotics for health services. The second is preventing narcotics abuse among adolescents, children and adults, and protecting threats to use narcotics without strict and thorough supervision. The third is eradicating the illicit trafficking of narcotics which is detrimental to users and also the nation. Lastly, the fourth, which is ensuring medical and social rehabilitation efforts for victims of narcotics.

Established on the empirical condition of the illicit distribution and abuse of narcotics in Indonesia as elaborated in the previous sections, the specific objectives of the present study are:

- a. To reveal the function of the National Narcotics Agency and the Police in handling narcotics crime cases.
- b. To disclose the synergy between the *BNN* functions and the police functions in investigating and examining the cases of criminal acts of narcotics.

2. LITERATURE REVIEW

As is well known by the public, the criminal act of narcotics crime refers to a crime belonging to an action that is against the Law and is very detrimental to the state and the Indonesian nation.

Criminal Law is the science that deals with studying and explaining the principles that are the basis of criminal law regulations that apply at a certain period and time, also explaining the relationship between these principles and then placing them in a system (neat arrangement), so that what is meant by the criminal Law can be understood (Rasyid Ariman and Fahmi Raghil, 2015: 6).

Article 1 Number (1) of Law Number 35 of 2009 concerning Narcotics specifies, "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, reducing to eliminating pain, and can cause dependence, which is differentiated into groups as attached in this Law."

According to Soedjono D., illegal use of narcotics by teenagers can be grouped according to three types of desire, namely:

- a. those who want to experience (the experience seekers), namely those who want to gain new

experiences and sensations from the consequences of narcotics users;

- b. those who intend to stay away from or avoid the reality of life (the oblivion seekers), namely those who think of being drugged as the most beautiful and most comfortable place of escape; and
- c. Those who want to change their personality (personality change), namely those who think that using narcotics can change their personality, such as being brave, getting rid of shame, being less rigid in relationships, and so on (Hari Sasangka, 2003: 9).

According to Dharmawan in a one-day seminar "*Dampak Ketergantungan Obat terhadap Perilaku serta Upaya Pencegahan dan Rehabilitasinya*" which was held at the University of Surabaya in August 1999 (Warta Ubaya, October 1999), in the use of dangerous drugs there are stages (Sasangka Day, 2003: 10). The stages of using narcotics are very diverse, starting from the impact of drug dependence which causes the user's behavior to become addicted to consuming drugs. Of course, every act shall be accounted for legally.

The synergy between the National Narcotics Agency and the Government agencies, in this case, the Police, can be seen in the handling of a narcotics crime.

The National Police of the Republic of Indonesia (in Indonesian is called *Kepolisian Negara Republik Indonesia* and abbreviated as *Polri*) is the Indonesian National Police, which is directly responsible under the President. *Polri* has a motto *Rastra Sewakotama* which means Main Servant for the Homeland and Nation. *Polri* is in charge of carrying out police duties throughout Indonesia, namely maintaining security and public order; enforcing the Law; and providing aegis, protection, and services to the community. The National Police is led by a Head of the Indonesian National Police (abbreviated as *Kapolri*). Since November 1, 2019, the Head of National Police position has been held by General Pol. Idham Azis (<https://id.m.wikipedia.org/wikidikutip> pada Tanggal 13 Maret 2020).

The synergy between the function of the National Narcotics Agency and the function of the Police in the case of narcotics crime is essential. The two government agencies carry out the duties and functions of each agency or institution authorized in criminal acts, especially narcotics crime.

3. RESEARCH METHOD

This study applies a normative legal research method. There are several approaches used, such as a statutory approach and a conceptual approach. The legal materials used are primary legal materials, secondary legal materials, and tertiary legal materials. These legal materials are collected using methods and techniques of exploration and note-taking of materials related to the

object of study. The legal materials that have been collected are analyzed using a qualitative analysis technique.

4. DISCUSSION

4.1 *The Function of the National Narcotics Agency in Preventing the Criminal Acts of Narcotics Abuse*

So far, the National Narcotics Agency has played a dominant role in eradicating and preventing narcotics abuse in Indonesia. The success of the National Narcotics Agency in preventing and eradicating the act can be seen from the way they work in the field, both in their efforts to carry out socialization in the community about the severe dangers of narcotics, ensuring medical and social rehabilitation efforts for narcotics abuse and collaboration with the Police in the case of narcotics eradication. Therefore, the agency has its function in preventing the crime of narcotics. The National Narcotics Agency has the authority to make policies; strategic policies related to narcotics and precursor crimes are inevitable. In this case, the criminal acts of narcotics refer to a criminal act committed by a criminal subject who uses substances or drugs prohibited by Law because it can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can lead to dependence, both the perpetrators and other people (Rodliyah, 2017: 87).

Narcotics precursors refer to:

Substances, starter ingredients, or chemicals that can be used to manufacture narcotics are differentiated in the table as attached to this Law. Narcotics precursors are defined as:

1. substances; or
2. starter ingredients; or
3. chemical material.

Chemicals are defined as compounds with a specific composition of ingredients. The use of these substances is as an ingredient in narcotics (Rodliyah, 2017: 89). Narcotics can be said not only from plants or synthetic substances but also from chemical substances. Narcotics precursors are substances or starter ingredients that can be used in the production of narcotics.

4.2 *The Role of the Integrated Assessment Team for the National Narcotics Agency in Handling Criminal Acts of Narcotics*

The Integrated Assessment Team (abbreviated as *TAT* in Indonesia) has a crucial role in dealing with narcotics cases. Apart from the Police, the Integrated Assessment Team is derived from the National Narcotics Agency, which can deal with narcotics abuse. Later, the team of doctors and the medical team will check victims or drug users.

TAT consists of a legal team from the National Police, *BNN*, Attorney General's Office, Ministry of Law and Human Rights of the Republic of Indonesia (or *Kemenkumham*) plus the Correctional Center

or *Bapas* (in handling child cases), which is in charge of analyzing whether acts of abuse are included in the drug syndicate network and a team of doctors (doctors and psychologists) in charge of conducting assessment and analysis medical, psychosocial and recommended drug abuse therapy and rehabilitation plans (<https://BNN.go.id/penguatan-sinergi-untuk-tim-asesmen-terpadu/>, retrieved on July 20, 2020).

The criminal acts of narcotics abuse examination process should be carried out carefully by the Integrated Assessment Team. This is mandatory because the criminal suspect himself also has rights as a suspect, protected by the applicable Law.

The rights of suspects in criminal cases are fundamental to be protected by Law. A suspect is usually a party whose personal freedom is partially taken. For example, he/she is arrested, detained, his/her belongings confiscated, and so on. Rights like that are fundamental rights for a person. Therefore, the Law necessarily needs to guarantee and supervise that taking the suspect's rights is not carried out arbitrarily or excessively (Munir Fuady and Sylvia Laura L Fuady, 2016: 7).

Criminal action suspects have ordinary rights in society, in general, including obtaining social justice for all Indonesian people, as stated in the fifth precept in *Pancasila*. Thus, the suspect is also entitled to legal protection such as rehabilitation and compensation in the form of money and vindication if they are innocent or are not involved as victims or perpetrators of the criminal acts of narcotics abuse.

4.3 *Synergy between the National Narcotics Agency and the Police in Handling the Criminal Acts of Narcotics*

Coordination between the National Narcotics Agency and the Police in handling narcotics crimes is essential. The National Narcotics Agency is the institution that plays the most significant role in the rehabilitation of victims of the crime of drug abuse. Meanwhile, the Police handle criminal acts of narcotics crimes, usually to eradicate narcotics trafficking. Both of these institutions have their professional ethics.

According to Notohamidjojo, in carrying out their obligations, legal professionals need to have:

1. Humane attitude, meaning that it does not merely respond to the Law formally, but rather the truth according to conscience;
2. A fair attitude, which means looking for worthiness by the feelings of the community;
3. Proper attitude, which means looking for considerations to determine justice in a concrete case;
4. Honest attitude means stating something is proper according to what it is and staying away from what is not proper and inappropriate (Supriadi, 2016: 21).

Every field of the legal profession, both from the National Narcotics Agency and the Police, has its respective functions and roles in carrying out its duties as legal professionals. Both must have a humane, fair,

proper, and honest attitude in carrying out their obligations as law enforcers, especially in the case of criminal acts of narcotics.

5. CONCLUSION

The National Narcotics Agency has a function in drafting and formulating national policies in the field of prevention and eradication of criminal acts of narcotics abuse. In addition, the Assessment Team belonging to the National Narcotics Agency has a role in conducting checks on victims or drug users by experts in their fields. The police function refers to a function of state government in guaranteeing public security and order, law enforcement, aegis, protection, and public services. The function of the Police in narcotics crime is to arrest, carry out investigations, and investigations as well as eradicate the crime of narcotics trafficking.

The synergy of investigations and examinations toward criminal acts narcotics abuse carried out by the National Narcotics Agency (*BNN*) and those carried out by the Police in uncovering the alleged Crime of Narcotics begins with investigations, arrests, searches, and other actions as an attempt to disclose allegations of the narcotics crimes. Furthermore, investigations are carried out to find bright spots for criminal acts and collect evidence to find the suspect. Meanwhile, the National Narcotics Agency will conduct a check in advance of the rehabilitation stage to determine whether if a person arrested is a victim of criminal acts of narcotics abuse or not.

REFERENCES

- [1] Hartono, 2012, *Penyidikan dan Penegakan Hukum Pidana Melalui Pendekatan Hukum Progresif*, Penerbit Sinar Grafika, Jakarta.
- [2] Lydia Harlina Marton, 2006, *Membantu Pencandu Narkotika dan Keluarga*, Balai Pustaka, Jakarta.
- [3] Moeljatno, 2000, *Azas-azas hukum pidana*, Jakarta: Bineka cipta
- [4] Munir Fuady dan Sylvia Laura L Fuady, 2016, *Hak Asasi Tersangka Pidana*, Penerbit Prenada Media Group, Jakarta.
- [5] Rasyid Ariman dan Fahmi Raghil, 2015, *Hukum Pidana*, Penerbit Setara Press, Malang.
- [6] Rodliyah, 2017, *Hukum Pidana Khusus*, Cetakan ke-1, Penerbit PT Rajagrafindo Persada, Depok.
- [7] Ruslan Renggong, 2016, *Hukum Pidana Khusus Memahami Delik-Delik di Luar KUHP*, Penerbit Kencana, Jakarta.
- [8] Supriadi, 2016, *Etika & Tanggung Jawab Profesi Hukum di Indonesia*, Penerbit Sinar Grafika, Jakarta.
- [9] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
- [10] Undang-Undang Nomor 2 Tahun 2002 tentang *Kepolisian Negara Republik Indonesia*
- [11] Undang-Undang Nomor 35 Tahun 2009 tentang *Narkotika*
- [12] Peraturan Presiden Nomor 23 Tahun 2010 tentang *Badan Narkotika Nasional*