

EFFECTIVENESS OF ASSESSMENT IN LAW ENFORCEMENT OFFENSES OF NARCOTICS ABUSERS

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Abstract

This study aims to describe the implementation of Integrated Assessment and assess the effectiveness of the assessment of criminal acts of narcotics abuse. The research method used is normative research method, supported by field data and in-depth interviews with respondents and sources relevant to the research topic. The results showed that not all cases involving narcotics offenders were given assessment recommendations due to differences in perception among law enforcement, and the high cost of assessment. The implementation of the assessment of narcotics abusers has not been effective because its implementation has encountered various obstacles. This article recommends that a review of the legal basis for handling narcotics is needed to ensure legal certainty in the implementation of assessments and the need for the government to take a health approach in handling narcotics in Indonesia.

Keywords: Integrated Assessment; Abuser; Narcotics.

Abstrak

Penelitian ini bertujuan untuk mendeskripsikan pelaksanaan asesmen terpadu dan mengkaji efektivitas asesmen tindak pidana penyalahgunaan narkotika. Metode penelitian yang digunakan adalah metode penelitian normatif, didukung oleh data lapangan dan wawancara mendalam dengan responden dan sumber yang relevan dengan topik penelitian. Hasil penelitian menunjukkan bahwa tidak semua kasus yang melibatkan pelaku narkotika diberikan rekomendasi penilaian karena perbedaan persepsi antar penegak hukum, dan biaya penilaiannya tinggi. Pelaksanaan asesmen terhadap penyalahguna narkotika belum efektif karena pelaksanaannya menemui berbagai kendala. Pasal ini merekomendasikan agar diperlukan tinjauan atas dasar hukum penanganan narkotika untuk memastikan kepastian hukum dalam pelaksanaan asesmen dan perlunya pemerintah melakukan pendekatan kesehatan dalam penanganan narkotika di Indonesia

Kata Kunci: Penilaian Terintegrasi; Pelaku; Narkotika.

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INTRODUCTION

Based on research data from the 2023 Indonesia Drug Report, in the period 2021 to 2023, the prevalence rate of narcotics abusers in Indonesia is 1.73%, or around 3.3 million people. This means that of the 10 thousand Indonesian population aged 15-64 years, there are 173 people who are exposed to narcotics.¹ In 2023, East Kalimantan Province will be ranked 4th (fourth) province with the highest number of narcotics trafficking cases in Indonesia.² With details, the number of narcotics abusers in 2023 will be 2,563 people,³ and 1,710 cases, while in 2022 there will be 2,147 people,⁴ and 1,480 cases.⁵ Then, in 2023, Samarinda City will be ranked 2 (two) regencies/cities most vulnerable to narcotics trafficking in East Kalimantan Province with 9 (nine) sub-districts in the danger category.⁶ In detail, the number of narcotics abusers in 2023 will be 225 people, an increase from 191 people in 2022.⁷

Indonesia has a very strict legal system in dealing with criminal acts of narcotics abuse. The rules governing this matter have been stipulated in various comprehensive laws and regulations. One of the main laws that regulates narcotics abuse is Law Number 35 of 2009 concerning Narcotics. This law functions as a legal basis for handling cases of narcotics abuse, both in terms of prevention, prosecution and rehabilitation for the perpetrators. This law also regulates various aspects related to narcotics, including the classification of narcotics, the use of narcotics for medical purposes, as well as sanctions for perpetrators of narcotics abuse. Regarding sanctions for perpetrators of narcotics abuse, this law stipulates various very severe penalties. Punishments for perpetrators of narcotics abuse can include imprisonment, fines, and even the death penalty. The sanctions given depend on the type and amount of narcotics misused, as well as the perpetrator's role in the crime. For example, someone proven to be distributing large amounts of narcotics can be sentenced to death.

Law enforcement still prioritizes prison sentences over rehabilitation. This is because it is an easy option for law enforcement in handling crime of narcotics abuse, rather than I must go through a

¹ National Narcotics Agency, Report on the Results of Measuring the Prevalence of Drug Abuse in 2023, Data and Information Research Center of the National Narcotics Agency 1, no. 1 (2023): 53. <https://puslitdatin.bnn.go.id/konten/unggahan/2024/06/Buku-Prevalensi-Penyalahgunaan-Narkoba-2023.pdf>.

² Muhammad Rifki, 2023, East Kalimantan enters the top 4 provinces with the highest number of drug trafficking cases in Indonesia, *Klikkaltim.com*, <https://klikkaltim.com/category/bontang/kaltim-besar-4-besar-provinsi-tertinggi-kas-peredaran-narkoba-di-indonesia>, (Accessed On 03/28/2024).

³ National Narcotics Agency, Indonesia Drug Report, National Narcotics Agency Data and Information Research Center 5, no. 1 (2023): 28.

⁴ National Narcotics Agency, Indonesia Drug Report, National Narcotics Agency Data and Information Research Center 1, no 1 (2022): 86, <https://rumahcemara.or.id/wp-content/uploads/2022/10/Indonesia-Drugs-Report-2022.pdf>.

⁵ Rita Noor Shobah, 2023, Drug Cases in East Kalimantan Increase, 2,198 Suspects Arrested by Police, Kukar Status Dangerous and Alert, *Tribunkaltim.co*, <https://kaltim.tribunnews.com/2023/12/30/kas-narkoba-di-kaltim-meningkat-2198-tersangka-ditangkap-polisi-kukar-status-bahaya-dan-waspada?page=all>, (Accessed On 03/28/2024).

⁶ Nancy, 2023, Kukar is the area most prone to drug trafficking in East Kalimantan, followed by Samarinda and Paser, *Korankaltim.com*, <https://korankaltim.com/read/patroli/67916/kukar-kawasan-paling-besar-rawan-peredaran-narkoba-di-kaltim-disul-samarinda-dan-paser>, (Accessed On 03/28/2024).

⁷ Marga Rahayu, 2024, Client of BNN Tanah Merah Increases Rehabilitation Center, *rri.co.id*, <https://www.rri.co.id/samarinda/kesehatan/528846/klien-balai-rehabilitasi-bnn-tanah-merah-meningkat>, (Accessed On 03/29/2024).

process/enforcement length law to put a suspected abuser into the institution rehabilitation through an integrated assessment process. This resulted in the prison population increasing and exceeding capacity.⁸

Based on research from the 2023 Indonesia Drug Report.⁹ The number of inmates in the Samarinda Class II A Narcotics Prison is 1,231 people, while the prison capacity is only 352 people, which is overcrowded by 349%. For Indonesia itself, there are 526 prisons and detention centers with a residential capacity of 140,424 people, while the number of prison and detention center inmates in 2023 will reach 269,263, with a total of 131,843 prisoners for narcotics crimes, of which 47,968 are narcotics abusers. In 2015, President Jokowi Dodo said at the National Coordination Meeting for Handling Drugs that he ordered the National Narcotics Agency to rehabilitate 100,000 narcotics abusers per year, but the fact that this has not been achieved and is still experiencing obstacles can be seen in the following data:

Table 1. Data on Rehabilitation of Narcotics Abusers in Indonesia

Year	Total in Rehabilitation
2020	12,570
2021	11,290
2022	13,374
2023	23,825

Source: Public Relations of the Cabinet Secretariat of the Republic of Indonesia, 2023, Overcoming the Dangers of Narcotics Through Rehabilitation, <https://setkab.go.id/penanggulangan-bahaya-narkotika-through-rehabilitasi/>

There are several other studies that discuss integrated assessments, such as Elisati Laia's research in 2022 from the University of Medan Area entitled Law Enforcement Against Criminal Acts of Narcotics Abuse in Gunung Sitoli City and Abdimas Nugroho's research in 2022 from the University of Borneo Tarakan entitled Law Enforcement of Narcotics Abuse by Police member at Tarakan Police Station. The two previous studies are very different from what the author researched, for example, the sources where the two studies only interviewed one source, while the author interviewed 5 sources from 4 different agencies and the problems they wanted to solve were also different, where the author focused on implementing an integrated assessment of Narcotics abusers and their obstacles in Samarinda City.

An integrated assessment of narcotics abusers is necessary in order to give suspects the right to receive rehabilitation, especially if the evidence falls under the provisions of Sema Number 4 of 2010. An integrated assessment is also important because it can be a solution to reduce the number of narcotics convicts so that it can lighten the burden on prisons, because With the report on the results of the integrated assessment, the judge can decide that the defendant will be rehabilitated. This is also in line with President Jokowi Dodo's goal of rehabilitating 100 thousand narcotics abusers every year. The

⁸ Anang Iskandar, 2019. Narcotics Law Enforcement (Rehabilitation for Drug Abusers and Addicts, Repressive for Dealers), (Jakarta: PT. Elex Media Komputindo), Pg 72.

⁹ *Ibid*, p. 29.

implementation of integrated assessments of drug abusers in Samarinda City is still not optimal, therefore the author is interested in researching how integrated assessments are implemented in law enforcement for criminal acts of narcotics abusers in Samarinda City, especially at the Investigation stage and the factors inhibiting the implementation of integrated assessments.

METHOD

This research is research *socio-legal research* namely research methods which describes the reality that exists at the research location and approaches it a problem through merger between normative analysis with approach non-legal science in seeing law using legal theories and approaches legislation (*Statue Approach*) and Case Approach (*Case Approach*).¹⁰ The Socio Legal approach does not mean position approach the doctrinal is removed but becomes an internal part approach this is supplemented with information supporter sciences outside of law.¹¹

This research was conducted in the Samarinda city area, namely at the Samarinda City National Narcotics Agency, Samarinda Police, Samarinda District Prosecutor's Office, and Samarinda City District Court. The main data of the research data were obtained through interviews with investigators and doctors from the Samarinda City National Narcotics Agency, Samarinda Police Investigators, Samarinda District Prosecutors, and Samarinda District Court Judges.

RESULT AND DISCUSSION

1. *Implementation of Integrated Assessments in Law Enforcement of Crimes for Narcotics Abusers in Samarinda City*

The importance of implementing the principle of *Fair Competition* is a matter of concern to several countries, especially in terms of fulfilling the rights of disabled workers. The rights that this country should fulfill have become the world's attention since the international treaty on the rights of persons with disabilities has been made. Therefore, here are some countries that support the implementation of *Fair Competition* in the implementation of the fulfillment of the rights of disabled workers:

Currently, the handling of criminal acts of narcotics abuse can be carried out through integrated assessment measures after the issuance of Sema Number 4 of 2010, Joint Regulation Number 1 of 2014, Regulation of the Head of the National Narcotics Agency Number 11 of 2014 and several other legal regulations that regulate integrated assessment mechanisms as a way to treatment based on a health approach to narcotics abusers. An integrated assessment is a comprehensive examination process by the Legal Team and Medical Team of narcotics abusers to find out the level of addiction or addictiveness of the narcotics abuser and whether he or she is connected to a network of narcotics dealers or dealers as well as to determine a rehabilitation plan for narcotics abusers.

Regulations in Law Number 35 of 2009 concerning Narcotics, Joint Regulation Number 1 of 2014, Sema Number 4 of 2010, and several other legal regulations have determined rehabilitation for drug abusers, addicts and victims of narcotics abuse as a suspect and the defendant, but this is still not implemented optimally by law enforcers. In the Investigation stage, the application for an integrated

¹⁰ Muhaimin, 2020, *Legal Research Methods*, (Mataram: Mataram University Press), p. 82.

¹¹ Mulawarman University, 2017, *Guidelines for Preparing a Thesis for Undergraduate Level (S-1) Legal Studies Program*, Samarinda: Faculty of Law, Mulawarman University, p. 26.

assessment of narcotics abusers who have evidence under Sema Number 4 of 2010 is still experiencing obstacles. Criminal prison still becomes an enforcement option the main laws compared with a health approach through rehabilitation. This is considered an easy option in dealing with criminal acts of narcotics abuse, rather than having to go through a long process to place someone accused of narcotics abuse into the rehabilitation system. through the assessment process integrated. The impact that occurs from punishment for someone who abuses narcotics like that abuser is increasingly fell into in narcotics trafficking while in prison. This will of course be a veil in the handling of law enforcement narcotics in Indonesia.¹²

Based on an interview with the Samarinda District Prosecutor's Office, Mr. Yosepus Ari Sepdiandoko, SH, MH, he revealed that the implementation of integrated assessments for narcotics abusers is still not optimal.¹³

Based on research by Anisya Ramdlonaning and Eva Achjani Zulfa from the University of Indonesia, Jakarta. Obstacles in providing integrated assessments to narcotics abusers are due to the perception of law enforcement officials who prefer to criminalize narcotics abusers in their law enforcement efforts and the legal substance related to integrated assessments is not binding.¹⁴

Based on research by Werri, Neni VesnaMadjid and Fahmiron from Eka Sakti University, West Sumatra. Revealed though there are already various policies who was born for placement suspect or defendant into the institution medical and social rehabilitation, as well as rehabilitation guarantee against abusers, addicts and victims of drug abuse. However, in practice, it is often investigators, public prosecutors and judges not implementing policies that have been made the.¹⁵

According to Orin Gusta Andini, Lecturer at the Faculty of Law, Mulawarman University. Law enforcement should not criminalize narcotics abusers. It would be better if narcotics abusers were rehabilitated, as this could be an effective solution to overcome the problem of overcapacity in prisons.¹⁶

The following is data from the Indonesia Drug Report taken from the SDP Directorate General of Pas in 33 Provinces in Indonesia, which shows the number of prisoners for narcotics cases in Indonesia in 2023:¹⁷

¹² Liana Panjaitan, 2020, Integrated Assessment Process in Handling Addicts and Victims of Narcotics Abuse (Case Study of the Medan City Police Narcotics Unit), Thesis, Faculty of Law, Muhammadiyah University, North Sumatra, p. 12.

¹³ Interview with Yosepus Ari Sepdiandoko, SH, MH, Samarinda District Attorney.

¹⁴ Anisya Ramdlonaning, Eva Achjani Zulfa, Analysis of Rehabilitation Policy for Narcotics Abusers in Indonesia, Ius Constituendum Journal 8, no 1 (2023): 53, <https://journals.usm.ac.id/index.php/jic/article/view/6119>.

¹⁵ Werri, Neni Vesna Madjid, Fahmiron, 2023, Judge's Consideration of the Recommendations of the Integrated Assessment Team for Narcotics Abusers, Journal of Swara Justisia 7, no 3: p 1050.

¹⁶ Aldi Budiari, 2021, As a result of two prisons in Kukar being over capacity, some female convicts were transferred to general prisons, KaltimKece, <https://kaltimkece.id/warta/kutai-kartanegara/imbis-dua-Lapas-di-kukar-over-kapasitas-sebagi-narapidana-perempuan-di-moved-ke-Lapas-umum>, (Accessed On 07/05/2024).

¹⁷ National Narcotics Agency, op.cit, p 28.

Table 2. Total Prisoners for Narcotics Crimes in Indonesia in 2023

Year	Distributor	Abuser	Total detainees for Narcotics Crimes
2023	83,875	47,968	131,843

Source: Indonesia Drug Report 2023

Based on data in 2023, the number of inmates in prisons and detention centers will reach 269,263, of which 47,968 are narcotics abusers, of which 131,843 are prisoners for narcotics crimes, while the capacity of prisons throughout Indonesia can only accommodate 140,424 people, consisting of 526 prisons and detention centers. Based on the data, there are still many abusers. narcotics which should be maximized to receive integrated assessment and rehabilitation, not in prison, this brings many losses to Indonesia.

Assessment actions integrated ending on rehabilitation can start at the Investigation stage. Authority to carry out an investigation into narcotics crimes owned by the National Narcotics Agency (BNN) and the Police Republic of Indonesia, Assessment process integration that occurs in stages Investigation well done by BNN and the Police is the same. Similarity this is caused because of the Police and the Narcotics Agency National is part of the legal team contained in the Assessment Team Integrated.

The mechanism for implementing integrated assessments in the Investigation stage by National Police Investigators or Agency Investigator National Narcotics, as one of the important requirements for drug abusers, addicts and victims of narcotics abuse can obtain their right to rehabilitation either during the legal process or through a judge's decision in Samarinda City, the stages can be seen in the Regulations Head of the National Narcotics Agency Number 11 of 2014 as follows:

- a. Implementation of an integrated assessment at the Investigation stage can begin when the abuser is apprehended or apprehended hands without evidence or with evidence but do not exceed the maximum daily usage limit as follows:

Table 3. Threshold for Daily Use of Narcotics Evidence

Number	Types of Narcotics	Threshold
1	Methamphetamine group (shabu)	1 gram
2	MDMA group (ecstasy)	2.4 grams or 8 grains
3	Heroin group	1.8 grams
4	Cocaine group	1.8 grams
5	Marijuana group	5 grams
6	Coca leaves	5 grams

7	Mescaline	5 grams
8	Psilosybin group	3 grams
9	LSD group	2 grams
10	PCP Group	3 grams
11	Fentanyl group	1 gram
12	Methadone group	0.5 grams
13	Pethidine group	0.9 grams
14	Morphine group	1.8 grams
15	Codeine group	72 grams
16	Buphrenorphine group	32 mg

Investigators submit requests for integrated assessments of suspected abusers and addicts or victims of abuse Narcotics will pay attention to the evidence if it exceeds the maximum daily usage limit then an integrated assessment will not be carried out, however if the evidence is below the daily usage limit, investigators can apply assessment integrated with the Head of the Assessment Team Integrated, in this case, the Head of the Samarinda City National Narcotics Agency, after a urine test was carried out, then a BAP (minute report) was made. examination) and Minutes of Confiscation (item attachment proof). The application for submitting an integrated assessment in the Investigation stage has a time limit based on Article 8 Paragraph (3) of Perka BNN Number 11 of 2014 submitted by the Investigator no later than 1X24 Hours (one time twenty four) hours after the arrest.¹⁸

- b. Application fileThe integrated assessment submitted by the investigator will then be verified first by the TAT Secretariat (Integrated Assessment Team), if the file does not meet the requirements. conditions, the application for integrated assessment is rejected and the investigator will be given a rejection letter TAT. If the file meets condition then a letter of disposition of the Chair of the Integrated Assessment Team will be made to follow up on the implementation of the integrated assessment of the suspect. Then after that an invitation to carry out an integrated assessment will be given to the Medical Team and Legal Team.
- c. The Legal Team consists of elements Police, BNN, Prosecutor's Office and the Ministry of Law and Rights Human Rights. Meanwhile the Medical Team consisting of elements of Doctors and Psychologists who has an assessor certificate from the Ministry Health. The Integrated Assessment Team will carry out integrated assessment at the Pratama Clinic is at the Narcotics Agency National Regency/City and Province.

¹⁸ Interview with Aipda Bheny Indarpojo, SH, MH Primary Investigator of the Samarinda City National Narcotics Agency."

- d. After that, an integrated assessment of abusers and addicts will be carried out and victims of abuse narcotics by the Legal Team and Medical Team, where the Legal Team will analyze whether a suspect is involved in illegal narcotics trafficking, acts as a dealer, dealer or simply as a drug abuser who uses narcotics for himself along with the legal provisions that should be applied to the suspect. Meanwhile, the Medical Team is tasked with carrying out this medical analysis and psychosocial to determine the severity level of the suspect, whether he is just a drug abuser, addict or victim of narcotics abuse. More than that, the Medical Team will also carry out an assessment/analysis of the suspect's social aspects, how he relates to his family, surrounding environment, work, psychiatric aspect, then from a health perspective, he will assess the level of addiction, levels of substances in the suspect's body and the suspect's health history to determine plan recommendations. therapy and rehabilitation for narcotics abusers.¹⁹
- e. After the interview process has been completed, the next stage is a case conference led by the Chair of TAT to formulate recommendations. At the case conference stage the results of the integrated assessment will be announced by the Legal Team and Medical Team regarding whether the suspect is an abuser, addict, victim of abuse, dealer or dealer, involved in a narcotics trafficking network or not. Once the results of the case conference are known, they will be handed over to investigators and the results of the integrated assessment will later be used to complete the formal case files which will later be used by the Public Prosecutor or Judge. Deep time carry out integrated assessment of abuser, addict and victims of abuse narcotics maximum 6 (six) days. An overview of the flow of implementing the integrated assessment can be seen as follows

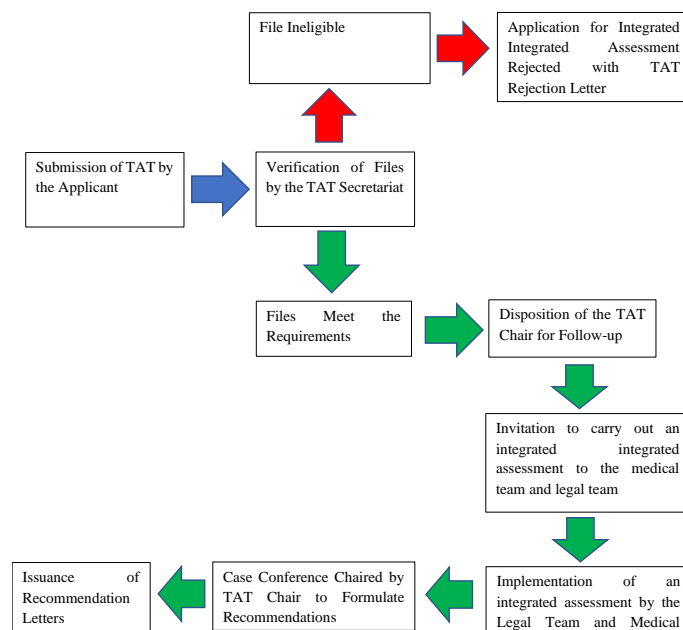


Figure 1. Integrated Assessment Implementation Flow

¹⁹Interview with Dr. Muhammad Reza Wardana, Head of Clinic and Doctor at the Samarinda City National Narcotics Agency.

Implementation of assessments integrated against abusers narcotics We are still experiencing obstacles and have not yet maximized this. We can see this in several decisions where narcotics abusers should have been given an integrated assessment and had the opportunity to receive rehabilitation, but at the investigation stage an integrated assessment was not provided so that narcotics abusers were imprisoned. There are several decisions that could have been given an integrated assessment but were not carried out as follows:

1. Decision Number 1045/Pid.Sus/2019/PN Smr²⁰
2. Decision Number 683/Pid.Sus/2023/PN Smr

The two decisions have similarities, namely:

a. The evidence that the suspect had when he was caught by investigators under Sema Number 4 of 2010 is as follows:

- Decision Number 1045/Pid.Sus/2019/PN Smr (BB 0.42 grams of methamphetamine)
- Decision Number 683/Pid.Sus/2023/PN Smr (BB 0.36 grams of methamphetamine)

b. An integrated assessment was not given by the Investigator which, based on the provisions of Sema Number 4 of 2010, had the opportunity to be given.

c. As a result of there being no integrated assessment, the Prosecutor charged under Articles 112 and 114 of Law Number 35 of 2009 concerning Narcotics.

d. The judge discovered the fact at trial that he was actually a narcotics abuser as stated in Article 127 of Law Number 35 of 2009 concerning Narcotics, but this article was not included in the Public Prosecutor's demands/indictments.

e. The judge can only apply the provisions of Sema Number 3 of 2015 where the provisions stipulate that if in the Public Prosecutor's indictment there is no charge of narcotics abuse but in fact at trial the defendant is proven to be a narcotics abuser then the judge can only deviate from the minimum criminal provisions based on Sema Number 3 of 2015 .

f. Due to the absence of an integrated assessment, suspects who have the right to rehabilitation do not receive it and receive prison sentences.

The existence of an integrated assessment result letter for narcotics abusers has a very important role so that abusers can obtain their right to rehabilitation. The legal strength of the integrated assessment letter can fulfill the strength of the evidence letter as regulated in Article 187 letter a of the Criminal Procedure Code if entered in case file and Witness A De Charge provided that the doctor on the Medical Team gives his statement at the trial.²¹ Apart from that, providing an integrated assessment

²⁰ DetakKaltim.Com. 2020, "Again, Drug Defendant Sentenced to 1 Year 6 Months After Being Sued for 7 Years." DetakKaltim.Com. <https://detakkaltim.com/index.php/2023/05/19/lagi-terangkat-narkotika-didunia-1-tahun-6-bulan-cepat-dituntut-7-tahun/>, (Accessed On 02/17/2024).

²¹ Freddy VZ. Pasaribu, "Evidentiary Strength of the Recommendations of the National Narcotics Agency's Integrated Assessment Team for Rehabilitation of Accused Narcotics Abusers," *Locus Journal of Academic Literature Review* 2, no. 6 (2023): 563. <https://jurnal.locusmedia.id/index.php/jalr/article/view/190>.

at the Investigation stage has an influence on the demands of the Public Prosecutor because the prosecutor makes demands based on the BAP (Investigation Report) which then becomes the Prosecutor's demands which will be used as a reference for the Judge to decide on the accused narcotics abuser. The integrated assessment result letter has a positive influence on narcotics abusers if they have it compared to narcotics abusers who do not have it at all because it will be a consideration for the judge when deciding on rehabilitation for narcotics abusers.²²The legal force of the letter resulting from the integrated assessment for narcotics abusers can be equivalent to a letter as stated in Article 187 letter a of the Criminal Procedure Code if it is included in the case file.²³

According to the author's analysis based on the results of interviews with various sources, the implementation of integrated assessments for narcotics abusers in Samarinda City is still not optimal due to the main factor, namely the legal regulations which are still optional, then there are still several cases where drug abusers have the right to receive an integrated assessment but it is not provided in investigation stage by the Investigator. Data on narcotics abusers also increases every year, where according to the author, the criminal approach in handling narcotics abuse cases is not on target, it is better for suspects to be given an integrated assessment and then rehabilitated. The author agrees that the criminal approach must remain strong in law enforcement for narcotics crimes, but the target must be directed at dealers and dealers, not narcotics abusers. Then the definition of a drug abuser and an addict is essentially the same, but in Article 54 of the Narcotics Law, it only accommodates rehabilitation for narcotics addicts. If we look again at the provisions of Article 4 letter d of Law Number 35 of 2009 concerning Narcotics, this rule was born based on the desire to guarantee the arrangement of medical and social rehabilitation efforts for narcotics abusers and addicts. Therefore, according to the author, the best punishment that should be given to narcotics abusers is not only intended as a sanction for legal violations that have been committed but also aims to restore or improve the condition of narcotics abusers.

2. *Effectiveness of Law Enforcement for Narcotics Abuse Crimes Through Integrated Assessments in Samarinda City*

Soerjono Soekanto believes that enforcement Law is an activity harmonize relationships the values described in the rules or view solid value and embody the attitude of action as a series of explanations final stage value to create, maintain and maintain peace social life.²⁴Enforcement legally concrete is enactment positive law in the a must practice obeyed. So, give it away justice within a thing means to decide law in concreto in guarantee and maintain obeyed him material law by using procedural methods established by formal law. The process of law enforcement according to Soerjono Soekanto, is influenced by five factors but in the research the author will focus on only 3 factors, namely:

1. Legal Factors
2. Factors of Law Enforcement Officials

²² Maria Adinta Krispradani, 2017, The Effect of Integrated Assessment on Public Prosecutor's Claims and Judge's Decisions in Narcotics Abuse Cases, Thesis, Faculty of Law, Gajah Mada University, p. 103.

²³ Interview with Aipda Bheny Indarpojo, SH, MH Primary Investigator of the Samarinda City National Narcotics Agency."

²⁴ *Ibid*, p. 5.

3. Facilities or Facility Factors.²⁵

a. Legal Factors

Giving criminal status to narcotics abusers cannot be separated from the influence of views or thoughts previously dominate in formation and implementation criminal law. The concept of criminalizing narcotics abusers comes from assumptions that narcotics should only be used for medicinal purposes and scientific research. Therefore, all actions outside of this goal are considered crimes because of the negative impacts they cause by use narcotics very illegal endanger human soul.²⁶

Implementing an integrated assessment of narcotics abusers is the answer to this problem. With an integrated assessment, narcotics abusers can be further investigated as to whether they are worthy of rehabilitation or should not be given rehabilitation. The integrated assessment will carry out examinations of narcotics abusers from the legal and medical aspects, the results of which are letters of integrated assessment results which have the value of objectivity in carrying out law enforcement against narcotics abusers. This method combines legal and health approaches. According to the author, integrated assessment is very effective in reducing and even overcoming the problem of the still high number of narcotics abusers in Indonesia, the problem of overcrowded prisons, the problem of supply and demand for narcotics which is still high and President Jokowi Dodo's mission to rehabilitate 100 thousand narcotics abusers can be maximized and realized with an integrated assessment strategy in handling cases of abusers, addicts and victims of abuse narcotics.

According to Soerjono Soekanto, law enforcement not just meaningless implementation of legislation, however there are factors that influence, namely factors its own law; enforcement factor law; means factor or supporting facilities law enforcement; community factors; and factors culture. However, this research will focus on three factors that hinder the implementation of integrated assessments, namely factors law, law enforcement and facilities and infrastructure, factors are mutual closely related, because is the essence of enforcement law and becomes a benchmark effectiveness law enforcement. The first is related to factors the law as follows:

- 1) Legal regulations related to assessment less integrated has legal force, provisions related to integrated assessments up to currently not set in Constitution Number 35 of 2009 Concerning Narcotics, but still regulated in common rules minister/leader level institutions so law enforcer see the integrated assessment process as a process just an alternative. Integrated assessment settings towards narcotics abusers at the investigation level refers to Sema Number 4 of 2010 where we know that Sema is not required to be obeyed by law enforcers other than judges and there are no regulations at the statutory level that regulate integrated assessments to date. One of the reasons why the implementation of

²⁵ Soerjono Soekanto, *Factors that Influence Law Enforcement*. (Jakarta: Raja Grafindo Persada, 2014).

²⁶Hafrida, 2016, *Criminal Law Policy towards Narcotics Users as Victims, Not Perpetrators of Crime: Field Study in the Jambi area*, PADJAJARAN: Journal of Legal Sciences 3, no 1, p 175.

- integrated assessments for narcotics abusers is still not optimal is because it is still a recommendation and not mandatory.²⁷
- 2) The legal regulations regarding rehabilitation in Article 54 use the phrase mandatory, whereas in Article 103 of Law Number 35 of 2009 concerning Narcotics the phrase can be used. This creates a contradiction between the articles regarding rehabilitation.
 - 3) Coverage type of narcotics in Sema Number 4 of 2010, which is a reference for determining whether narcotics abusers have the right to an integrated assessment or not, still does not follow developments in the latest types of narcotics, throughout the world there are 1150 types of narcotics where in Indonesia based on data from the Indonesia Drug Report 2023 there are 91 types of narcotics that have been entered, 85 have been regulated by the Minister of Health and 6 types of narcotics have not been regulated by the Minister of Health.²⁸For example, in the case of Raffi Ahmad, he consumed narcotics but it was not regulated in the Minister of Health Regulation, so the principle of legality applies so that he was released and could not be prosecuted.²⁹

Table 3.1 Data on the Number of Narcotics Regulated in Indonesia in 2023

Number of Narcotics Regulated by Minister of Health Regulations	Number of Narcotics Not Yet Regulated by Minister of Health Regulations
85	6

Source: Indonesia Drug Report 2023

- 4) Article 127 contradicts Article 54 of Law Number 35 of 2009 concerning Narcotics, in one On the other hand, mandatory rehabilitation, but on the other hand, there is a criminal penalty, it is recommended that Article 127 be directed towards mandatory rehabilitation as in Article 54. Then this article does not consider mens rea, so many narcotics abusers end up in prison.
- 5) The time limit for submitting an integrated assessment by investigators of narcotics abusers is no later than 1 x 24 hours after arrest. This is an obstacle because investigators still have to develop cases and examine evidence at the National Narcotics Agency Laboratory Center, sometimes it takes more than 1 x 24 hours.
- 6) The existence of rubber articles, namely Articles 112 and 114 of Law Number 35 of 2009, is an obstacle which is quite significant in implementation of integrated assessments of abuser narcotics, this is because these two articles will definitely fulfill the elements of a narcotics abuser, logically it is impossible for a narcotics abuser not to consume narcotics if he does not own, store, control as an element of Article 112 and buy as an element in Article 114, this becomes problematic in law enforcement which causes many narcotics abusers to be sentenced to prison and results in overcrowded prisons. Law Number 35 of 2009 was made based on the circumstances and conditions that occurred in Indonesia before 2009, which was an amendment to the 1997 Law on Narcotics. If we look at the current

²⁷ Interview with Aiptu Ramli Parningotan Sianturi, SH Samarinda Police Investigator.

²⁸ National Narcotics Agency, op.cit, p. 37.

²⁹ Interview with Aipda Bheny Indarpojo, SH, MH Primary Investigator of the Samarinda City National Narcotics Agency.

conditions in 2024, a revision of the Narcotics Law is really needed. and include articles related to assessment integrated in the Revised Law Narcotics could be a solution.³⁰

One of the factors that influence effectiveness enforcement The criminal law for narcotics abuse in Samarinda City is a legal factor. In factors There are six points in the law that are problematic. However, according to the author's analysis, there are two points that must be immediately improved, namely that arrangements related to integrated assessment must be strengthened in order to increase the effectiveness of its implementation against abusers. narcotics because until now, as explained in point one, the provisions relating to integrated assessment have not been regulated in Law Number 35 of 2009 concerning Narcotics, but are still arranged in joint regulations at Minister/leader level agencies so law enforcement sees assessment process integrated as an alternative process just. Then the existence of rubber articles, namely Articles 112 and 114 in the Narcotics Law, also influences the implementation of integrated assessments of narcotics abusers, this is because these two articles will definitely fulfill the elements that narcotics abusers have, logically it is impossible for a narcotics abuser not to consume narcotics if he does not have , storing, controlling as an element of Article 112 and purchasing as an element in Article 114, this becomes a problem in law enforcement which causes many narcotics abusers to be sentenced to prison and results in overcrowded prisons.

b. Law Enforcement Factors

1) Lack of investigators

Based on your explanation Aipda Bheny Indarpojo, SH, MH as Primary Investigator of the Samarinda City National Narcotics Agency. The Samarinda City National Narcotics Agency is still experiencing problems with the number of Investigators where there are only 2 (two) Investigators at the Samarinda City National Narcotics Agency to carry out investigations into cases of narcotics abusers with a scope of 1 (one) Samarinda City.³¹The ideal general ratio of police personnel in a country is 1:450 or around 225 police officers for every 100,000 civilians.³²Meanwhile, the number of Samarinda City BNN Investigators compared to the total population of Samarinda City is 2 (two) to 856,360 people based on data from the Samarinda City Central Statistics Agency in 2023.³³

³⁰ Interview with Aipda Bheny Indarpojo, SH, MH Primary Investigator of the Samarinda City National Narcotics Agency.

³¹ Interview with Aipda Bheny Indarpojo, SH, MH Primary Investigator of the Samarinda City National Narcotics Agency.

³² Abu Nadzib, 2023, "Not Ideal, 1 Police Officer in Central Java Must Serve 1,116 Civilians," SoloPosJateng, <https://jateng.solopos.com/tak-ideal-1-polisi-di-jateng-must-serve-1-116-civilian-1739570>, (Accessed On 04/03/2024).

³³ BPS Samarinda City, "Samarinda City in Figures 2023, 2023, Samarindakota.bps.go.id, <https://samarindakota.bps.go.id/publication/2023/02/28/ace19ab2ed48fb5c794cb13d/kota-samarinda-dalam-angka-2023.html>, (Accessed On 03/04/2024).

Table 3.2 Comparative data on the number of BNN investigators and the number of residents Samarinda City in 2023

Number of Investigators from the Samarinda City National Narcotics Agency	Number of Residents of Samarinda City
2	856,360

Source: Data from the Samarinda City Central Statistics Agency for 2023

2) Knowledge and Competence of Investigators

In handling cases of narcotics abusers, the knowledge and competence possessed by investigators have a significant influence in handling cases. Investigators must study and know all the rules both from a criminal perspective, especially rules related to a health perspective, because if investigators do not know these things, do not study them, there is a chance that someone will abuse them. narcotics for which an integrated assessment can actually be carried out has the possibility of not being implemented. Competency here also includes the investigator's ability to speak a foreign language because narcotics crimes are crimes on an international scale.

3) Differences in Law Enforcement Views Regarding Integrated Assessments and Rehabilitation

In handling narcotics cases still there is differences of opinion among enforcers The relevant law prioritizes a criminal approach or a health approach in handling cases of narcotics abusers. In the enforcement investigation stage the law still focuses on punishment instead rehabilitation through integrated assessment. Differences in the views of law enforcers historically can be seen, for example, in 2015 the Head of the National Narcotics Agency, Budi Waseso, supported the criminal approach in handling narcotics cases, he once said that the law does not look at someone it's the user or narcotics dealers, everyone has to subject to sanctions criminal. Because drug dealers it hides behind user status, finally just hit rehabilitation. Rehabilitation also uses state money. It means detrimental country twice.³⁴Then the former Head of the National Narcotics Agency, Anang Iskandar, was more in favor of a health approach in handling narcotics cases, he once said that the Narcotics Agency National (BNN) recorded the number narcotics users imprisonment reached tens thousand for five recent years, Though, imprisoning users it's the same as improving circulation goods it is haram in prison.³⁵

4) The reimbursement process for narcotics abusers is still ongoing

obstacles where the Investigator has a tendency not to do it, again this integrated assessment can be carried out if the Investigator requests it (at the request of the Investigator), one of the reasons is because if an integrated assessment has been carried out and rehabilitation can be carried out

³⁴ Renatha Swasty, 2015, Waseso: Rehabilitation of Drug Addicts Harms the State, medcom.id, <https://www.medcom.id/nasional/Hukum/0k8gGV0b-waseso-rehabilitasi-pecandu-narkoba-rugikan-negara>, (Accessed on 04/ 03/2024).

³⁵ Robertus Belarminus, 2015, Head of BNN: Imprisoned Users Actually Promote Drug Trafficking Because, Kompas.com, <https://megapolitan.kompas.com/read/2015/06/25/1954103/Kepala.BNN.Pemakai.Dipenjara.Justru.Fertilize.Drug.Circulation.because>, (Accessed on 04/03/2024).

there must be someone who is responsible for supervising the suspect or accused in place rehabilitation.³⁶ Another reason The implementation is up to the investigator whether he wants to implement the recommendations during the legal process or wait for the judge to decide because there is no obligation to carry out rehabilitation in the legal process even though an integrated assessment has been carried out, it is still optional.³⁷

5) Law enforcers, both investigators and prosecutors, often include Article

112 and Article 114 in the BAP (Investigation Report) or Indictment Letter, almost never only includes a single article, for example Article 127 in cases of narcotics abusers, even in cases of narcotics abusers, Article 127 is not included at all, this is what led to Decision Number 1045/Pid.Sus/2019/PN Smr, Decision Number 683/Pid.Sus/2023/PN Smr can occur, the absence of an integrated assessment at the Investigation stage is also a major factor in this happening. Every abuser who is not related to illicit narcotics trafficking should have the right to receive integrated assessment and rehabilitation in law enforcement.³⁸

6) Law enforcers

Tend to wait for a request for an integrated assessment from the suspect's legal advisor and then submit a request for an integrated assessment, not immediately acting on their own initiative because the rules regarding integrated assessment are still optional depending on the initiative of the investigator. The application can be made by the suspect understand there is a process assessment integrated or by the suspects who have levels economically well-off, is a public figure and has been accompanied in-house legal advisor handling the case. This can be seen from the case of Dwi Sasono, he was arrested with 16 grams of marijuana as evidence, where the maximum limit in Sema Number 4 of 2010 for marijuana is 5 grams, but in this case he still received an integrated assessment by the police which was proposed by his legal advisor and sentenced to 6 months of rehabilitation by the South Jakarta District Court.³⁹ We can see that the implementation of integrated assessments for narcotics abusers still exists Inequalities in treatment between public figures or someone who has a well-off economy and ordinary people involved in the same case, with the revision of the Narcotics Law which contains separate regulations regarding integrated assessment of selective treatment in the implementation of integrated assessments can be overcome so that it will provide certainty. law against all suspected narcotics abusers.

7) The existence of individual

³⁶ Palupi Lindiasari Samputra, Ela Bestia, 2021, Evaluation of Integrated Assessment Policies in Rehabilitation Efforts for Narcotics Abusers in Depok City, Indonesian Scientific Journal 6, no. 3: p 1187.

³⁷ Ricky Gunawan, Miko Ginting, Raynov T. Pamintori, 2021, Improving Indonesia's Narcotics Governance: Looking for Non-Punitive Alternatives for Narcotics Use (Jakarta: Institute For Criminal Justice Reform), p. 26.

³⁸ Dahlan, 2017, Problems of Justice in the Application of Criminal Justice to Narcotics Abusers, (Yogyakarta: Deepublish), p. 68.

³⁹ Andi Muttya Kateng, Pangerang Melvina Tionardus, 2020, The Journey of Dwi Sasono's Drug Case, Ends with a 6 Month Rehabilitation Sentence, Kompas.com,

<https://www.kompas.com/hype/read/2020/10/09/11836966/perjalanan-kas-narkoba-dwi-sasono-berujung-vonis-6-bulan-rehabilitasi?page=all>, (Accessed on 04 /03/2024).

Investigators who make integrated assessments a commodity. Investigators use integrated assessments as a means of blackmail suspect/family suspect to give money in return promised an assessment will be carried out integrated. For suspects/families the suspect is not willing to pay or unable pay, don't expect obtain integrated assessment. Based on the statement Yohan Misero, Policy Analyst LBH Masyarakat Narcotics, "It's wrong one case what we monitored, investigators had time to do it asked for twenty million rupiah from suspect. When he confronted him with the Judge at the trial, he actually scolded the Judge to pay two tens of millions is because of the times now nothing is free. Whereas according to the Regulations Together in 2014, the entire budget was related to assessment integrated, borne by BNN."⁴⁰

According to law enforcement authors play a very important role in carrying out their duties because they are role models in society, which should be have the ability in accordance with aspirations public. They must can communicate and get understanding from the target group, in addition bring acceptable role by them. Based on what has been explained in relation to law enforcement factors, there are seven points which are still obstacles in implementing integrated assessments of narcotics abusers, especially related to the perspective in handling criminal acts of narcotics abusers, which until now is still primarily focused on a criminal approach, in the future it is hoped that the Law will be revised. The position of the Narcotics Law on the health approach is strengthened so that drug abusers can receive integrated assessment and rehabilitation without selective treatment, with the aim being that law enforcement for criminal acts of narcotics abusers can be maximized.

c. Facilities and Infrastructure Factors

1) Factors of Lack of Budget/Funding Resources in Implementing Integrated Assessments

Based on the author's interview with the Administrative Staff of the Eradication Division of the Samarinda City National Narcotics Agency, the budget for carrying out integrated assessments will decrease in 2023 from 31 million to 26 million, however the officers carrying out integrated assessments consist of elements from the National Police, BNN, Prosecutor's Office and Ministry of Law and Human Rights as well as the Team medical staff consisting of Doctors and Psychologists do not mind this, they have integrity and continue to do it even though they are constrained by budget because it is their job.⁴¹

2) Not all regions have a National Narcotics Agency at the Regency/City Level

The absence of BNN at the Regency/City Level in an area will be a problem that affects the implementation of integrated assessments in law enforcement for narcotics abusers, where the time to submit an integrated assessment is limited to 1X24 hours after the arrest is made, this is a geographical problem in handling narcotics cases, for example in The cities of Sangatta, Sendawar,

⁴⁰ Ricky Gunawan, 2018, *Integrated Assessment of Narcotics Addiction Is a Right, Not a Commodity!*, Community Legal Aid Institute, <https://lbhcommunity.org/rilis-pers-bersama-integrated-assessment-narcotics-dependence-is-a-right-not-komoditas/>, (Accessed On 04/03/2024).

⁴¹ Interview with Halifatul Ardi, S.Pd. Administrative Staff for Eradication of the National Narcotics Agency of Samarinda City.

Penajam, in these cities there is still no BNN at the Regency/City level so that the implementation of integrated assessments for narcotics abusers is still experiencing obstacles.

- 3) Not all cities have laboratories to examine the narcotics content in suspects' urine, which is one of the requirements so that integrated assessments can be carried out on narcotics abusers by investigators as stated in Sema Number 4 of 2010. The time required for laboratories to carry out urine examinations suspects on average 24-48 hours, while the time to submit an application for an integrated assessment by an investigator is a maximum of 1x24 hours. This becomes a problem if in a city there is no laboratory to carry out urine examinations where you must first deliver the urine to the nearest city. Having this laboratory is a geographical obstacle in implementing integrated assessments of narcotics abusers.

According to Soerjono Soekanto, these three factors are interrelated with each other, because they are the essence of law enforcement, and are also a benchmark for the effectiveness of law enforcement.⁴²As for Samarinda City, based on research the author has conducted on legal factors, law enforcement, facilities and infrastructure. According to the author, the most dominant factor influencing the law enforcement of criminal acts of narcotics abuse in Samarinda City is the legal factor, namely the rules related to integrated assessment. Until now, it lacks legal standing. This factor has an impact on law enforcement factors, which only consider integrated assessment as an alternative. , also had an impact on facilities and infrastructure factors in Samarinda City, where there was a decrease in the budget for implementing integrated assessments. Therefore, according to the author, the implementation of integrated assessments in law enforcement for criminal acts of narcotics abusers still needs to be maximized and the Revision of Law Number 35 of 2009 concerning Narcotics must be accelerated and regulations related to integrated assessments included in it so that the problems that have been expressed can be resolved properly. maximum.

CONCLUSION

The implementation of integrated assessments for narcotics abusers in Samarinda City is still not optimal and there are several problems such as the legal basis related to the implementation of the assessment which does not yet have regulations at the level of law which results in its implementation by Investigators only being an alternative, not mandatory, which also correlates with differences in the views of law enforcers in providing assessment of suspected narcotics abusers and a reduction in the budget for carrying out integrated assessments and not all cities have a Regency/City National Narcotics Agency resulting in the effectiveness of law enforcement against narcotics abusers through integrated assessments still not being optimal and influenced by 3 factors as explained in the discussion section. The criminal approach is still the main choice for law enforcers for narcotics abusers, where they are sick people who should be given priority for rehabilitation first through an integrated assessment mechanism and the criminal approach is the final solution if it is not successful (*ultimum remedium*). In the future, law enforcers must align their perspectives in handling cases of narcotics abusers so that the problem of prison overcapacity can be minimized and it is hoped that in the revision of the narcotics law provisions related to integrated assessments will be included so that implementation can be maximized. Where currently there are no regulations regarding integrated assessment at the statutory level, this is something that must be corrected and carried out further research in future studies.

⁴² Romli Atmasasmita, *Legal Reform, Human Rights & Law Enforcement* (Bandung: Mandar Maju, 2015).

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