

ABSTRAK

Penelitian ini dilatarbelakangi oleh maraknya peredaran gelap narkoba di Indonesia sebagai kejahatan luar biasa (*extraordinary crime*) yang memicu keterlibatan prajurit Tentara Nasional Indonesia (TNI) di lapangan, seperti tindakan pengamanan pelaku dan barang bukti berdasarkan laporan masyarakat. Tindakan tersebut menimbulkan persoalan yuridis karena menyentuh ranah upaya paksa (*pro-justitia*) yang merupakan wewenang eksklusif Polri dan BNN. Rumusan masalah dalam penelitian ini mengkaji bagaimana konsekuensi hukum bagi TNI apabila melakukan tindakan berupa mengamankan orang dan barang bukti narkoba tanpa kewenangan menurut KUHAP dan Undang-Undang Narkotika.

Penelitian ini menggunakan jenis penelitian hukum normatif (*doctrinal legal research*) melalui studi kepustakaan. Pendekatan penelitian yang digunakan meliputi pendekatan perundang-undangan (*statute approach*), pendekatan konseptual (*conceptual approach*), dan pendekatan studi kasus. Bahan hukum primer, sekunder, dan tersier yang dikumpulkan kemudian dianalisis secara deskriptif-kualitatif dengan metode normatif-deduktif.

Hasil penelitian menunjukkan bahwa TNI tidak memiliki kewenangan atributif maupun delegatif dalam penindakan pidana narkoba terhadap warga sipil. Tindakan TNI di lapangan sebatas pengamanan fisik sementara yang hanya dibenarkan pada situasi tertangkap tangan (*ontdekking op heterdaad*) dengan kewajiban mutlak untuk segera menyerahkan pelaku dan barang bukti kepada penyidik berwenang. Konsekuensi hukumnya, penindakan mandiri tanpa prosedur tertangkap tangan murni atau yang mengalami penundaan penyerahan (*unreasonable delay*) dikategorikan sebagai tindakan melampaui kewenangan (*ultra vires*)/cacat hukum, yang berisiko merusak rantai penguasaan barang bukti (*chain of custody*) sehingga barang bukti narkoba dapat dinyatakan tidak sah di persidangan (*inadmissible evidence*), memicu gugatan praperadilan, serta menimbulkan pertanggungjawaban pidana, disiplin, maupun administratif bagi oknum prajurit yang bersangkutan.

Kata Kunci: Pengamanan, Narkoba, Tentara Nasional Indonesia, Konsekuensi hukum

ABSTRACT

This research is motivated by the widespread illicit trafficking of narcotics in Indonesia as an extraordinary crime that triggers the involvement of Indonesian National Armed Forces (TNI) soldiers in the field, such as securing perpetrators and evidence based on public reports. Such actions raise juridical issues because they touch upon forced measures (pro-justitia), which fall under the exclusive authority of the Indonesian National Police (Polri) and the National Narcotics Agency (BNN). The research problem examines the legal consequences for the TNI when securing individuals and narcotics evidence without authority under the Criminal Procedure Code (KUHAP) and the Narcotics Law.

This study employs normative legal research (doctrinal legal research) through literature review. The research approaches used include the statute approach, conceptual approach, and case study approach. Primary, secondary, and tertiary legal materials gathered were analyzed descriptively and qualitatively using a normative-deductive method.

The results show that the TNI possesses neither attributive nor delegative authority to conduct criminal law enforcement regarding narcotics against civilians. Field actions by the TNI are limited to temporary physical securing, which is legally justified only in caught-in-the-act (ontdekking op heterdaad) situations with an absolute obligation to immediately hand over the perpetrator and evidence to authorized investigators. Consequently, independent enforcement without a genuine caught-in-the-act situation or involving unreasonable delay in handover is categorized as an ultra vires/procedurally defective action. This risks compromising the chain of custody, potentially rendering the narcotics evidence inadmissible in court, triggering pretrial lawsuits, and entailing criminal, disciplinary, or administrative liability for the individual soldiers involved.

Keywords: *Securing, Narcotics, Indonesian National Armed Forces, Legal Consequences.*