



## **Implementation of The Indonesian National Military (TNI) Commander's Telegram Letter Number St/398/2009 Regarding The Dismissal of TNI Personnel Involved In Narcotics Abuse In Relation to The Values Of Sapta Marga, Oath of Military Service, and The 8 Mandatory Duties of The TNI**

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### **Abstract**

*The abuse of narcotics among the Indonesian National Armed Forces (TNI) personnel is a serious issue that can undermine the integrity and professionalism of the military. The Telegram Letter of the TNI Commander Number ST/398/2009 regarding the Dismissal of TNI Personnel Involved in Narcotics Abuse serves as a legal basis to address this problem. This study aims to analyze the implementation of the TNI Commander's Telegram Letter Number ST/398/2009 in the dismissal of personnel involved in narcotics abuse, and its correlation with the values of the Sapta Marga, the Soldier's Oath, and the 8 Obligations of TNI. This research uses a normative juridical approach with qualitative analysis, examining regulations, legal norms, and their application in the context of military discipline. The study findings indicate that the implementation of the TNI Commander's Telegram Letter Number ST/398/2009 has been carried out fairly well, although there are still challenges in the enforcement of dismissals and discipline in the field. The values of Sapta Marga, the Soldier's Oath, and the 8 Obligations of the TNI are essential foundations in making dismissal decisions, as an effort to maintain the image and honor of the TNI.*

**Keywords:** *dismissal of tni personnel, narcotics abuse, tni commander's telegram letter, sapta marga, soldier's oath, 8 obligations of tni, legal implementation, military discipline.*

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### **INTRODUCTION**

Narcotics are substances that cause various effects, including decreased consciousness, hallucinations, and increased arousal. Drug abuse among the Indonesian National Army (TNI) can occur due to various factors, such as curiosity, the influence of the social environment, or stress relief. This abuse has become a serious problem that is increasing both in the number of cases and its impact.

According to the definition of the World Health Organization (WHO), drug dependence is a condition that occurs due to repeated use, either from natural or synthetic substances. Drug abuse is usually followed by symptoms of a strong desire to continue using the drug, increased doses, and physical and psychological dependence (Purwatiningsih, 2001).

The TNI as one of the state institutions has strict rules regarding discipline, including in terms of drug abuse. In the military disciplinary legal system, as regulated in the relevant laws, the military involved in drug abuse can be subject to severe sanctions, which are regulated in accordance with statutory provisions to maintain integrity and order within the military.

The role of this law is very important in preventing and providing strict sanctions for military members who violate the rules regarding drug abuse (Rahmadona, 2014).

One of the main reasons for TNI members to be dismissed from the Military Service (DKP) is if they are given additional criminal penalties of dismissal by a judge in court. This

dismissal is usually associated with serious crimes, including drug abuse, which violate military law and general law. In addition, soldier administration and soldier disciplinary law can also be the basis for dismissal if the soldier violates military administrative rules.

Drug abuse among the TNI is considered a serious threat, because in addition to endangering individual health, it also threatens state security and the image of the military institution. Drug abuse has become a global problem, including in Indonesia. According to data from the United Nations Drugs Control Program (UNDCP), around 220 million people in the world use drugs, and around 1.5% or 3.2 million of them are in Indonesia. A report from the United Nations on Drugs and Crime (UNODC) also states that around 1% of Indonesia's population is involved in drug abuse.

Criminal law in Indonesia, including military criminal law, strictly regulates narcotics crimes. Based on Law Number 35 of 2009 concerning Narcotics, narcotics are classified as substances or drugs derived from plants or non-plants, either synthetic or semi-synthetic, which can affect consciousness, reduce pain, and cause dependence. For members of the TNI, involvement in drug abuse also violates the military code of ethics, which can lead to dismissal and criminal penalties.

The soldier administration itself is a series of activities that cover the entire soldier development cycle, from recruitment, education, use, to separation or dismissal. When TNI members are involved in drug violations, this separation process is carried out in accordance with applicable laws, both within the framework of military disciplinary law and criminal law.

Narcotics are divided into three groups based on Law Number 35 of 2009 concerning Narcotics, as stated in Article 6:

1. Narcotics Class I:
  - Used only for scientific development.
  - Not allowed for medical therapy.
  - The potential for dependency is very high.
2. Class II Narcotics:
  - It can be used for treatment, but only as a last resort.
  - Allowed in medical therapy and scientific development.
  - High potential for dependency.
3. Narcotics Class III:
  - Widely used in medicine and therapy.
  - Allowed for the development of science.
  - The potential for dependency is relatively mild.

Narcotics are substances that work on the central nervous system, can cause loss of consciousness, and cause dependence. The problem of narcotics is divided into three important components:

- Illicit production of narcotics.
- Illegal drug trafficking.
- Drug abuse.

According to the National Narcotics Agency (BNN) report, in 2019, the prevalence of drug abuse in Indonesia was 2.53%. Male users reached 3.6 million people, while female users numbered 1.27 million people.

With the increasing number of drug abuse cases, both in quantity and quality, this problem is a serious concern, especially because drug abuse is most often found among young people, who are the nation's future generation.

The most widely circulated drugs in Indonesia are marijuana, crystal methamphetamine, and ecstasy, which account for up to 85% of drug use cases. This drug use involves three main groups, namely students, workers, and households (Herindrasti, 2018). In handling drug abuse cases, it is important to pay attention to the three main components of users, namely users, abusers, and addicts.

Legal subjects in narcotics crimes are divided into three (Ratna, 2017):

1. Abusers, namely people who use narcotics without permission or against the law.

2. Addicts, namely those who experience physical or psychological dependence on narcotics.
3. Victims of abuse, namely someone who uses narcotics due to being persuaded, deceived, or forced.

Drug use does not only occur in the general public but also involves military members, such as the case of Decision Number 9K/Mil/2018, where TNI members were involved in drug abuse. This shows that even law enforcement officers can become drug users, abusers, or addicts.

To overcome this problem, a criminological approach is very important in identifying the motives and modus operandi of narcotics crimes. Legal analysis of existing decisions is needed to ensure proper criminal responsibility and to seek legal truth.

Some substances included in this class of narcotics are heroin, morphine, and marijuana, while other addictive substances that work on the central nervous system can also cause dependency.

With high prevalence among the community and law enforcement, stricter and more focused policies are needed to address this problem comprehensively.

Drug abuse in Indonesia is a serious problem that is increasingly worrying from year to year. Drugs, as part of extraordinary crime, have a broad impact that affects almost all aspects of life, both from the economic, social, and psychological sides. Its abuse can reach all levels of society, including students, professionals, celebrities, and even members of the TNI (Imam, 2015).

TNI members, who should be role models in preventing and eradicating narcotics, are not immune from the drug trap. However, the law in Indonesia states that no one is immune from the law, including TNI members. If a TNI soldier is involved in a narcotics crime, he will be tried through the military justice system, in accordance with Law Number 31 of 1997 concerning Military Justice (Septiana, 2015).

The Military Court has a specially regulated structure, with the Military Court tasked with trying TNI soldiers with the rank of Captain and below. The trial is open to the public except for cases of morality. The punishment imposed on soldiers involved in narcotics not only includes criminal penalties, but is also considered a violation of the values of the Sapta Marga, the Soldier's Oath, and the 8 TNI Obligations.

Criminal acts committed by TNI members are also regulated in several important legal books, such as:

1. Criminal Code (KUHP)
2. Military Criminal Code (KUHPM)
3. Military Disciplinary Code (KUHDM).

Thus, drug violations committed by military members will still receive firm action through legal channels, which not only include aspects of internal discipline but also national criminal law.

In Indonesia, especially in the TNI environment, criminal acts such as drug abuse still occur, although this should be avoided if every TNI member understands and internalizes the duties and responsibilities they carry. The principles that must be upheld by every TNI member, such as the Sapta Marga, the Soldier's Oath, and the 8 TNI Obligations, firmly emphasize the importance of discipline, responsibility, and obedience to the law.

The Sapta Marga and the Soldier's Oath require TNI members to uphold integrity, responsibility to the nation and state, and carry out their duties with honor. In the case of drug abuse, this action clearly violates these principles because it shows a failure to maintain discipline and commitment to state duties.

These violations can occur because some TNI members may not fully understand and interpret the Sapta Marga and 8 TNI Obligations as moral guidelines that must be upheld in carrying out duties. This lack of understanding, accompanied by external factors such as environmental pressure and social interactions, can push TNI members into drug abuse. This not only tarnishes the image of the TNI but also damages the discipline and integrity within the military.

Therefore, a deeper understanding of the Sapta Marga, Soldier's Oath, and 8 TNI Obligations as well as the implementation of strict discipline are key to preventing violations of the law, especially drug abuse, among TNI members.

## METHOD

This study uses a normative legal method, namely research that focuses on the study of library materials or secondary data. Normative legal research includes research on legal principles and vertical and horizontal synchronization of legal regulations (Soerjono, 2001). Legal research is the process of searching for legal rules and doctrines that can answer legal problems (Marzuki, 2011). Several approaches used in this study include the statute approach, conceptual approach, comparative approach, historical approach, and case approach (Marzuki, 2013).

Statutory Approach, is carried out to research, examine all related laws and regulations that are the legal issues desired by the researcher. The conceptual approach in this case the researcher follows the applicable legal regulations at that time, but indeed because there are no or no legal regulations for the problem at hand. While the comparative approach is carried out to see how one law regulates provisions that are similar but not in the same direction as other laws (Sudarto & Lesmana, 2018).

## RESULTS AND DISCUSSION

### Results

In the Indonesian legal hierarchy, the 1945 Constitution of the Republic of Indonesia (UUD 1945) is the highest source of law. This is emphasized in Article 7 paragraph (1) of Law Number 12 of 2011 concerning the Formation of Legislation. Although Pancasila is not considered a technical legal basis, Pancasila plays a role as the source of all sources of law, or basic norms that regulate the organization of the state and the life of the nation and state.

The 1945 Constitution occupies the highest position in the legal hierarchy, which means that every rule or law that exists must be in accordance with the principles contained in the 1945 Constitution. The legal hierarchy of Indonesian regulations includes:

1. 1945 Constitution
2. Decree of the People's Consultative Assembly (MPR)
3. Law (UU)
4. Government Regulation in Lieu of Law (Perpu)
5. Government Regulation (PP)
6. Presidential Decree (Keppres)
7. Regional Regulation (Perda)

As a written constitution, the 1945 Constitution not only regulates the organization of the state, but also serves as a source of legitimacy for all lower legal regulations. Therefore, the constitution is considered the highest and fundamental legal rule in the legal structure of the state.

In addition to the 1945 Constitution, Pancasila has a normative position as the philosophical foundation and ideology of the state that cannot be changed, and directs the formulation of other laws in Indonesia. So, when discussing the highest source of law in Indonesia, the answer is the 1945 Constitution.

In the Indonesian legal system, the 1945 Constitution (UUD 1945) is the highest source of law, serving as the basic legal document since its adoption on 18 August 1945. The 1945 Constitution serves as the basis for all other laws and regulations, ensuring that no law may conflict with its principles.

Although Pancasila, as the philosophical foundation of the state, is not technically a legal document, it is the source of all laws in Indonesia. This means that Pancasila guides the law-making process, including the 1945 Constitution itself, by upholding the values of Divinity, Humanity, Unity, Democracy, and Social Justice.

Regarding the legal framework for narcotics in Indonesia, Law Number 35 of 2009 concerning Narcotics is the main regulation that regulates control, prevention, and law enforcement against narcotics-related crimes. This law groups narcotics into three groups:

1. Class I Narcotics: Substances that have a high potential for abuse and are not recognized for medical use.
2. Class II Narcotics: Substances that have medicinal properties but have the potential to cause high levels of dependency.
3. Class III Narcotics: Substances used for treatment with a lower risk of dependence.

Class I offenses, such as trafficking or possession, are subject to severe penalties, including imprisonment of 4 to 12 years, and fines ranging from Rp800 million to Rp8 billion. The regulation aims to address the growing threat of narcotics, which can damage the younger generation and potentially create a "lost generation" if not addressed seriously.

By respecting the principles of Pancasila, Indonesia's legal framework, including the narcotics law, seeks to protect the integrity of the nation and the welfare of its citizens, especially the younger generation, from the adverse effects of drug abuse.

In the military context in Indonesia, there are no specific regulations governing rehabilitation for TNI soldiers who become drug addicts. This poses a greater risk of drug abuse because the addictive nature is difficult to overcome. Military criminal law, both formally and materially, still regulates basic provisions regarding unlawful acts, including drug abuse, which can be subject to criminal sanctions in accordance with the law.

Drug addiction is in many cases considered a mental and behavioral illness that also has a major impact on the social and psychological aspects of the individual. In the general public, the problem of drug addiction is often considered a moral problem rather than a health problem. This affects the public perception of drug abuse, especially in the military context, where discipline and obedience to the law are the main principles.

Based on data from the National Narcotics Agency (BNN) from the 2019 Indonesia Drug Report, the prevalence of drug users among workers reached 2.1%, or equivalent to 1.5 million people. Of that number, men contributed 6.5%, while women contributed 2.3%. The areas with the highest prevalence include the provinces of South Sumatra (3.5%), East Kalimantan (3.2%), and West Java (5.25%).

Although military law is strict against TNI members involved in drug abuse, the law still takes into account the principle of military interests. This means that in the application of the law, special considerations such as the stability and efficiency of the military organization are prioritized, which makes this case not only a matter of criminal violations, but also related to the integrity of the military as a means of national defense.

From this perspective, strict law enforcement in cases of drug abuse by TNI members still takes into account the impact on the overall institution and national security.

The Unitary Military Criminal Law in Indonesia is regulated in the Military Criminal Code (KUHPM), which applies specifically to military personnel. The KUHPM includes norms and sanctions for violations committed by the military, and was formed with the aim of creating *eenheid van recht* (unity of law), which functions as an important instrument in enforcing legal awareness among the military. The KUHPM is different from the Criminal Code (KUHP) which applies to civilians.

This difference arises because the military is part of an organization with heavy duties, requiring high discipline, and a unique unity of views and actions. The reasons behind the separation of the KUHPM from the KUHP include:

1. Distinctive Military Character: The military is not just a group of people with weapons, but is trained to think and act differently, especially in combat situations. Therefore, special rules are needed that can enforce discipline and maintain fighting spirit.

2. More Severe Criminal Threats: Some violations committed by the military are considered to require more severe sanctions than those listed in the Criminal Code, even with the application of Article 52 of the Criminal Code which allows for increased penalties. The Criminal Code allows for different additional penalties.
3. The Role of Commanders in the Legal Process: In the military, commanders play a critical role, especially in combat areas. Commanders often play a more dominant role than law enforcement such as military police, military prosecutors, or military judges, especially in balancing "Unity of Command" and "Unity of Prosecution."

There are two main views regarding the unification of the Criminal Code (KUHPM) with the Criminal Code. Those who support unification argue that general criminal law also applies to the military, and with adjustments to certain articles, the Criminal Code (KUHPM) can be integrated into the Criminal Code. Meanwhile, those who reject unification argue that the military needs its own criminal law that is adjusted to their nature and duties which are different from civilians.

The military justice system is also specifically regulated in Law Number 31 of 1997 concerning Military Justice, which gives a central role to commanders in resolving cases involving soldiers.

In the Indonesian military legal system, punishment for TNI members is not only punitive but also educative, where the punishment given serves to educate and train soldiers so that they can return to being good military members. If a military member is still unable to improve himself after serving his sentence, then the option of dismissal is seen as the final solution, which means that after being dismissed, he is no longer part of the military.

In addition, military criminal law does not recognize collective punishment, even though the crime involves many perpetrators. Each perpetrator must be held accountable for his actions individually. This applies even in cases such as rebellion or joint criminal acts, such as theft, assault, and murder by a group.

Military criminal law also applies in emergency situations, where ordinary courts may not be able to function. In such situations, military courts are still expected to be able to function effectively.

The punishments imposed on the military based on the Military Criminal Code (KUHPM) include:

1. Main penalties: Death penalty, imprisonment, confinement, and closure.
2. Additional penalties: Dismissal from military service, demotion, and revocation of certain rights as stated in the Criminal Code.

Discharge from military service may be with or without revocation of the right to re-enter the armed forces, depending on the severity of the offense committed.

The essence of criminal law for a military man is more than just punishment, but also as a form of education and development. Criminal action in the military sphere aims to ensure that soldiers who have completed their sentences can return to being better and more disciplined military members. This shows that criminal law in the military is educational, not just repressive. If a soldier is deemed incapable of returning to his duties properly after serving his sentence, then the decision to dismiss is the right action, considering the importance of maintaining discipline and integrity within the military unit.

The difference between general and military punishment also reflects this orientation. In military punishment, the place of execution of punishment is usually under military control and emphasizes rehabilitation rather than deterrence, in contrast to the implementation of punishment in civilian circles which focuses more on the deterrent effect. The type of punishment of fines, for example, is not widely known in military punishment because fines are considered less effective in enforcing military discipline.

In addition, additional punishment of dismissal from military service can only be imposed by a military judge, not a civilian judge, considering that military judges are considered to have a better understanding of the norms of typical military life. Military judges have the authority to impose additional punishment such as dismissal if they are considered that the soldier is no longer fit to serve in the military environment.

Law enforcement against criminal acts committed by TNI members, including in drug cases, shows TNI's commitment to upholding discipline and justice within the military. Drug abuse is seen as serious because it can damage a soldier's physical and mental abilities, which has the potential to reduce overall military readiness. Therefore, dismissal of soldiers involved in drug abuse is considered important to maintain the professionalism and integrity of the TNI.

### *Discussion*

Implementation refers to actions taken by individuals or groups, both in the government and private sectors, to achieve the goals set out in the policy. In the Indonesian National Army (TNI), one of the most important doctrines is Sapta Marga, which serves to maintain the integrity and unity of the TNI from extreme influences, both from the left and right.

Sapta Marga was created by Brigadier General TNI (ret.) Bambang Soepeno, who played a major role in shaping the spirit of nationalism and military ethics in Indonesia. The following is the content of Sapta Marga:

1. We are citizens of the Republic of Indonesia who are based on Pancasila.
2. We are Indonesian Patriots, Supporters and Defenders of the State Ideology who are Responsible and Never Give Up.
3. We are Indonesian Knights, who are devoted to God Almighty, and defend honesty, truth and justice.
4. We, the soldiers of the Indonesian National Army, are the shadow of the Indonesian nation and state.
5. We, the soldiers of the Indonesian National Army, uphold discipline, obey and obey our leaders and uphold the attitude and honor of soldiers.
6. We are Indonesian National Army Soldiers, Prioritizing Officership in Carrying Out Our Duties and Always Ready to Serve Our Country and Nation.
7. We are soldiers of the Indonesian National Army, loyal and keep our promises and soldier's oath.

In addition, the Soldier's Oath and the 8 Obligations of the TNI also play an important role in directing the morality, responsibility, and attitude of soldiers towards the people and the country. This doctrine strengthens the spirit of discipline, loyalty, and respect for the country and the people of Indonesia.

- The Soldier's Oath emphasizes loyalty to the Republic of Indonesia, obedience to the law, and full responsibility for duty.
- 8 TNI obligations emphasize the respectful attitude and responsibility of soldiers in dealing with the people, maintaining honor, and playing an active role in helping the community.

With the implementation of Sapta Marga, Soldier's Oath, and 8 TNI Obligations, the TNI can continue to maintain its integrity and maintain discipline and unity among its members, while also pioneering community development efforts.

Rehabilitation in the context of military justice in Indonesia is important, especially in relation to TNI soldiers involved in drug abuse. Based on applicable law, rehabilitation is a right for defendants who are found not guilty in court, including military justice. In Law No. 31 of 1997 concerning Military Justice, it is emphasized that military justice aims to uphold law and justice in the armed forces.

However, in practice, TNI soldiers involved in drug abuse often do not get access to medical rehabilitation. When they are discharged from military service, they return to society without adequate treatment to recover from their drug addiction. This is potentially dangerous because former TNI soldiers who are still addicted to drugs can be recruited by drug trafficking networks, using their military skills to support illegal activities.

The role of rehabilitation is very important to ensure that former TNI soldiers involved in narcotics can fully recover and reintegrate into society productively. On the

other hand, regulations regarding military justice, as stipulated in Article 5 paragraph 1 of Law No. 31/1997, give responsibility to military justice to enforce the law while still considering the interests of national defense and security. However, there is still a gap in the implementation of medical rehabilitation for soldiers who are dismissed due to drug abuse.

This calls for a policy update that places greater emphasis on the importance of rehabilitation, both in military and civilian contexts, to prevent the long-term negative impacts of drug abuse among TNI soldiers. Rehabilitation is an important step to prevent further abuse and ensure that individuals do not engage in illegal activities in the future.

The implementation of military justice and law enforcement against military personnel involved in narcotics crimes is very important to maintain the integrity of the TNI as a national defense institution. According to applicable law, including Law Number 35 of 2009 concerning Narcotics, any military personnel who commits a crime of narcotics abuse will not only face general criminal sanctions, but also special additional sanctions such as dismissal or demotion in accordance with the KUHPM (Military Criminal Code).

Additional criminal penalties such as dismissal from military service are military-related punishments and are intended to maintain discipline and the integrity of the military organization. This is not regulated in the Criminal Code, which applies to civilians, but rather in the Criminal Code, which specifically regulates violations of discipline and criminal acts in the military. In addition, military justice also gives special consideration to military interests, which means that law enforcement must be carried out with attention to the interests of national defense.

In some cases, medical rehabilitation for TNI members involved in drug abuse is not always carried out. As a result, former soldiers who are discharged are still dependent on drugs when they return to society, which has the potential to cause new problems. This rehabilitation is very important to prevent former soldiers from getting involved in drug networks after being discharged, and to ensure that they can return to being good citizens.

Law enforcement within the TNI must involve synergy between the Military Police (POM), Military Auditors, and the BNN, to ensure that TNI members involved in narcotics networks can be tried fairly without ignoring military interests.

## CONCLUSION

**Absence of Special Rules for Military Rehabilitation:** Until now, there have been no clear regulations governing the rehabilitation procedures for TNI soldiers involved in drug abuse. This shows a legal vacuum in the military realm regarding recovery steps for members who are addicted to drugs.

**High Potential for Repeated Drug Abuse:** Military personnel who are drug users or addicts, but do not receive rehabilitation, are at high risk of repeating drug abuse behavior. Drug addiction that is difficult to overcome without medical rehabilitation increases the possibility of former addicts returning to drug use.

Thus, there needs to be strict regulations regarding rehabilitation in the military to ensure the recovery process for those involved in narcotics cases, in order to prevent the repetition of such crimes in the future.

Based on the explanation above, the author concludes that there needs to be a special regulation governing rehabilitation for addicts or drug users in the military. The absence of clear regulations regarding rehabilitation in the military has the potential to cause a repeat of drug abuse, given the addictive nature that is difficult to eliminate without proper medical and psychological intervention. Rehabilitation will be an important step to help soldiers fully recover and ensure they do not engage in drug abuse again in the future.



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