

Efforts to Legalize Cannabis for Medicine, Reviewed from Legal Sociology

Muh. Nasir

Muhammadnasir16041966@gmail.com

Sekolah Tinggi Ilmu Hukum Painan

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Abstract

Indonesia as a country that adopted the 1961 Single Convention on Narcotics and the Protocol that changed it, refers to Political principles. Which was ratified by Law No. 35 of 2009 concerning narcotics. Narcotics abuse is prohibited and threatened with imprisonment as well as narcotics addicts who do not report to recover are also threatened with criminal punishment, but the coercive effort and punishment are in the form of rehabilitation. Modern medicine is a method of treatment that is carried out based on scientific research and based on knowledge from various aspects, medical treatment uses several applied scientific disciplines in treating a disease, the way of examining and diagnosing diseases is more accurate. The problem in this study is how can the potential legalization of cannabis for treatment be realized in Indonesia? How can the legalization of marijuana for treatment be applied in Indonesia? The objectives of this research are. To find out and analyze whether the potential for legalization of cannabis for treatment can be realized in Indonesia. The research method used is a normative research method through a library research approach or a literature review method using the analytical descriptive writing method. From the results of the data collected from the laboratory research.

The results of the study show that. The legalization of marijuana for treatment can be realized in Indonesia in terms of existing laws, in Law No. 35 of 2009 Health Law No. 17 of 2023 article 139. Judging from the benefits, the Narcotics Law and the Health Law, and Islamic religious law are allowed, which through mechanisms or exceptions under certain conditions are allowed, and also from sociology of society there are also marijuana used in daily life. In the application or implementation of the legalization of marijuana for treatment, there are several factors that hinder the legalization of marijuana for treatment, the Convention

The United Nation's Single Convention on Narcotic Drugs, 1961, which was ratified into Law No. 35 of 2009 on narcotics. It is difficult to obtain marijuana and access it legally for research purposes. Lack of positive impact literature.

I. Introduction

Although the law has become an inseparable part of human life. Law is difficult to define precisely and uniformly because of its abstract nature. In addition, the scope of the law is very broad, covering aspects of life. Providing a legal definition has its advantages and disadvantages. The advantages of using legal definitions for those who are new to studying law will certainly be able to provide an initial

overview of what they will learn. That then the lack of using legal definitions can give an inappropriate impression to people who are first studying things about law because of misunderstandings, because it is impossible to give an accurate definition regarding law regarding reality. Likewise with other disadvantages, but as an initial introduction to the law, the understanding is also given.¹ The law in English is called "law", in French it is called "droit", in Dutch it is called "recht", in German it is called "Rench" and in Arabic it is called "shari'ah". What is meant by "law"? Scholars and legal experts make different formulations or definitions of what is meant by law, according to their respective viewpoints and language tastes. According to Soerojo Wignjodipoero, in his work entitled "Introduction to Law, Law states that Law is a set of rules of life that are coercive, containing an order, prohibition or permission to do or not to do something and with the intention of regulating order in people's lives.

According to Van Apeldoorn, the law is very difficult to define. Seeking the understanding of the law is the same as seeking the understanding of a mountain. The difference is that the law cannot be seen in its appearance or form, whereas we can see the mountain. So that the limit of the mountain seen from our point of view is an ascension of the earth, rather steep and in all directions higher than the surroundings, whereas the law cannot be seen from our point of view, because the law itself cannot be seen. In reality, in society, there will be two groups that have views on the law, namely

: first, Ontwikkelde Leek, which is the view that says that law is law. For this group, the law is nothing but a series of articles contained in the Law. This view is also called the view of Legislation, because it glorifies the Law too much. The second is The Man In the Street which states that the law

1 Nurhayati, Yati (2020). Introduction to Law. Nusa media (Ikapi) Ujung Berung Bandung page 3 in L.J. van Apeldoorn, (2000), Introduction to Law, translated by Oetarid Sadino, Jakarta: PT. Pradnya Paramita, p. 1

Solikin Nur (2014). Indonesian Law & System Analyst. STAIN Jember Press page 12 in Soerojo Weignjodipuro (1974) Introduction to Indonesian Law, Ghalia Indonesia, cet VII, page 13

are court buildings, judges, lawyers, prosecutors, bailiffs and so on. However, Van Apeldoorn himself said that the law is society itself in terms of life association. This restriction was created only as a temporary grip for people who wanted to study the law. Law has many aspects and a wide scope because law regulates all areas of people's lives, not only the society of a nation but also the world community, which is always experiencing continuous development and change. And the law as a norm is indeed abstract (cannot be captured with the five senses). Legal regulations contained in a series of words of a law are the embodiment of legal norms or symbols used to convey legal norms. In society
MODE the emblem that most common Used To convey legal norms is a written regulation. But other forms of emblems can also be used.

Utrecht, for example, in his book "Introduction to Indonesian Law" states, "Law is a set of life instructions (commandments and prohibitions) that govern order in a society, and therefore should be obeyed by the members of the society concerned."

Soejono Soekanto and Purnadi Purbacaraka in their book "Joints of Law and Legal Governance" stated that there are 9 (nine) kinds of legal meanings given by the community, namely:

1. Law as a science, namely knowledge that is systematically arranged on the basis of the power of thought.
2. Law as a discipline, which is a system of teachings about the reality or symptoms faced.
3. Law as a rule, namely as a guideline or benchmark for an appropriate or expected attitude or behavior.
4. Law as a legal system, namely the structure and process of the set of legal rules that apply at a certain time and place and in written form.
5. Law as officers, namely individuals who are closely related to law enforcement (law enforcement officers).
6. Law as a ruler's decision, namely the result of a discretionary process that concerns decisions that are based on law, but which are also based on personal judgment.
7. Law as a government process, namely the process of reciprocal relations between the main elements of the state system.
8. Law as an attitude of action or behavior ("orderly"), that is, behavior that is repeated in the same way, aiming to achieve peace.
9. Law as a weave of values, that is, the weave of abstract conceptions in human beings about what is considered good (so it must be embraced or obeyed) and what is considered bad (so it must be avoided

From some of the definitions above, it can be said that the law is difficult to define because the law has so many facets and forms that it is impossible to cover all the facets and forms of the law. Nevertheless, we can define a law when there are the following elements:

1. Written or unwritten regulations made by the authorities
 2. It is binding and coercive for the subject
 3. Contains commands and prohibitions
 4. There are strict sanctions for those who violate it.
1. Health

Health is an important thing that must be maintained by everyone, because with a healthy body, the body will be easy to carry out activities and there are no obstacles in activities. According to Health Law No. 23 of 1992, health is a state of well-being of the body, soul, and society that allows everyone to live productively socially and economically.

Public health is the science and art of maintaining, protecting and improving public health through community efforts in the procurement of health services in

the form of disease prevention and eradication. The main scientific subjects of public health consist of two scientific disciplines, namely: Biomedical and social sciences in accordance with the development of public health science. The realm of public health science is a science and art that Synergy in the field Preventive and PROMOTIVE. The view that public health science is only in the form of counseling activities needs to be straightened out. For this reason, we need to understand the concept of public health science first.

2. There is a lot of marijuana abuse in Indonesia

The National Narcotics Agency (BNN) noted that there were 6,894 cases of abuse of narcotics and drugs (narcotics) during 2009-2021. Of that amount, the National Narcotics Agency (BNN) has confiscated asset evidence worth IDR 1.09 trillion.

Looking at the type, marijuana is the most confiscated drug evidence by the National Narcotics Agency (BNN). The amount was recorded at 28.47 tons in the last 12 years. The National Narcotics Agency (BNN) also confiscated a lot of shabu as evidence up to 14.38 tons. Ecstasy is in third place with a total of 5.02 tons of evidence.

Then, evidence in the form of medicines amounting to 2.37 million items. A total of 2.05 million carisoprodol tablets were found as drug evidence from 2009-2021. Then, 1.51 million marijuana trees were confiscated as evidence of drugs. A total of 351,429 items of drug evidence of the happy five type. Meanwhile, drug evidence in the form of safrol was found as much as 257 thousand milliliters. At the end of 2020, the decision of The Commission on Narcotic Drugs (CND), to follow the recommendations of the World Health Organization (WHO) to remove Cannabis and Cannabis Resin from Schedule IV of the 1961 Convention so that both remain on Schedule I of the 1961 Convention, reaped controversy among the world community, especially Indonesia.

2 Wantu, W. Fence M. (2015). Introduction to Law. Reviva Cendekia Ung Press page 2 In Van Apeldoorn, 1999, Introduction to Law, Pradnya Paramita. Jakarta page 6

3 Solikin Nur (2014). Indonesian Law & System Analyst. STAIN Jember Press pp. 11-12 In Utrech (1957), Introduction in Indonesian Law, Ichtiar, Jakarta, ha

3. There is a patient's demand that marijuana be legalized for treatment.

Lately, there has been a lot of pressure for Members of the House of Representatives (DPR) of the Republic of Indonesia to conduct a review of the Narcotics Law, this is in line with the plan to revise Law Number 35 of 2009 concerning Narcotics. Not only that, Vice President and Chairman of the Advisory Board of the Indonesian Ulema Council (MUI) Ma'ruf Amin even asked the MUI to make a fatwa regarding the discourse on the use of marijuana for medical needs. These steps were taken in response to the efforts of Santi Warastuti, a mother whose daughter suffers from cerebral palsy, who is currently filing a lawsuit to review the Narcotics Law to the Constitutional Court (MK). Due to her illness, Santi's daughter needed cannabis oil (CBD) treatment made from cannabis

extract. However, because Law Number 35 of 2009 prohibits the use of narcotics for medical purposes, this treatment has been hindered. Finally, Santi carried out an action carrying a poster that read "Please, my son needs medical marijuana" at the Car Free Day (CFD) of the HI Jakarta Roundabout on Sunday (26/6/2022).

This action then went viral on social media and led to the reopening of the discourse on the legalization of medical marijuana in Indonesia. The discourse on legalization of medical marijuana has indeed surfaced several times. In addition to Santi, the story of Dwi Pertiwi and his son Musa IBN Hassan Pedersen, as well as the story of Fidelis Arie Sudewarto and his wife Yeni Riawati, have catapulted this legalization discourse. Moses and Jani had now passed away because of their illness. However, the story of the two is worth remembering in the struggle for the legalization of medical marijuana which has not yet ended. The story of Dwi Pertiwi and Musa Dwi Pertiwi is the mother of Musa IBN Hassan Pedersen, a 16-year-old boy who has cerebral palsy. Together with Santi Warastuti, Dwi Pertiwi filed a lawsuit for a material review of the Narcotics Law to the Constitutional Court in November 2020.

Similar to Santi, through this material test lawsuit, Dwi wants to seek cannabis treatment for the sake of her son's recovery. Moses initially developed pneumonia as an infant. However, due to errors in diagnosis and treatment, the disease progresses to meningitis that attacks the brain. To fight his illness, Moses underwent physiotherapy and anti-seizure drugs. However, this step did not make Musa's condition improve, in Indonesia Dwi Pertiwi then collected information from various sources. In some cases abroad, children suffering from cerebral palsy can be cured due to cannabis treatment. Several studies and scientific journals have also proven that cannabis is able to treat children with cerebral palsy. On that basis, Dwi Pertiwi wants the Constitutional Court to cancel the ban on the use of medical marijuana contained in the Narcotics Law. However, before getting cannabis treatment, Moses finally died. The son of Dwi Pertiwi breathed his last a month after the lawsuit to the Constitutional Court was filed on December 26, 2020.

4<https://www.suara.com/news/2022/06/10/142355/15-negara-yang-melegalkan-ganja-thailand-so-first-country-in-asia?page=all> access 31 July 2023 16:25

Following the application for material testing of Law Number 35 of 2009 concerning Narcotics against the 1945 Constitution related to the use of medical marijuana for health ran aground at the Constitutional Court (MK). The Constitutional Court (MK) stated that it rejected all of the applicant's applications. "The court rejected the petitioners' application in its entirety," said Chief Justice of the Constitutional Court (MK) Anwar Usman in the reading of the decision/determination at the Constitutional Court (MK) Building, Central

Jakarta, Wednesday (20/7/2022). The lawsuit with case number 106/PUU-XVIII/2020 was filed by Dwi Pertiwi, Santi Warastuti, Nafiah Murhayanti, the Association of Rumah Cemara, the Institute for Criminal Justice Reform (ICJR), and the Association of Community Legal Aid Institutions or Community Legal Aid Institutions (LBHM).

2. Research Method

The methods used in this study are the Normative Juridical and Sociological juridical methods, namely research that refers to legal norms, which are contained in the applicable laws and regulations as a normative foothold, law as law in action is described as an empirical social phenomenon. This study aims to obtain an overview of the goals to be achieved in the application of recidivist legal rules, forms of coaching and obstacles to recidivist coaching in prisons using various secondary data such as laws and regulations, legal theories, and can be in the form of opinions of scholars. This normative legal research also uses field research (empirical juridical/field research) with primary data as support for explanation in the research.

3. Results and Discussion

Legalization of cannabis for treatment can be realized in Indonesia.

In Law No. 35 of 2009 concerning Narcotics Article 7 which reads that, Narcotics can only be used for the benefit of health services and/or the development of science and technology. The sound of article 7 is very clear and we don't need to interpret it anymore. Everyone must be able to understand from the sound of article 7 of Law No. 35 of 2009 concerning Narcotics. In Law No. 35 of 2009 concerning Narcotics. Article 8 paragraph 2 (two) In limited quantities, Class I Narcotics can be used for the purpose of scientific and technological development and for diagnostic reagents, as well as laboratory reagents after obtaining the approval of the Minister on the recommendation of the Head of the Food and Drug Supervisory Agency. Here, diagnostic reagents are class I narcotics which are limited to the detection of a substance/material/object used by a person whether it is a type of narcotic or not. While laboratory reagents are laboratory tools in the form of liquids that are used to determine a chemical reaction or as a reactant. It is associated with a laboratory, which is usually medicalology or a medical laboratory.

In Article 12 paragraph (1) it reads that Class I Narcotics are prohibited from being produced and/or used in the production process, except in very limited quantities for the purpose of scientific and technological development. It is also emphasized in detail that paragraph I in the paragraph which reads (2) The supervision of the production of Class I Narcotics for the purpose of scientific and technological development as referred to in paragraph (1) is carried out strictly by the Food and Drug Supervisory Agency. The regulation and procedures are explained in paragraph (3) Further provisions regarding the procedures for implementing production and/or use in production with a very limited amount for the benefit of science and technology development as referred to in paragraph (1) are regulated by Ministerial Regulation. In development and research in Article 13 paragraph (1) which reads that scientific institutions in the form of educational and training institutions as well as research and development organized by the government or the private sector can acquire, plant, store, and use narcotics for the benefit of science and technology after obtaining the permission of the Minister. It reads further provisions regarding the conditions and procedures for obtaining permits and uses of narcotics as

referred to in paragraph (1) regulated by Ministerial Regulation. On the other hand, at the trial position led by the Chairman of the Constitutional Court Anwar Usman, the government presented three experts, namely Mufti Djusnir, Rahmana Emran Kartasasmita, and Ahmad Redi. Mufti Djusnir explained his expertise and experience as the Head of the Narcotics Laboratory Center of the National Narcotics Agency (BNN) which is tasked with conducting analysis, testing, and research on narcotics evidence, as well as compounds suspected of narcotics in the context of *projustisia*. Mufti stated, a study on a type of Class I Narcotics,

According to Mufti, if the test results at this stage are declared effective, safe, and efficacious, then the final stage of this research test is the narcotics classification stage. Is it included in Class II Narcotics, which is a type of narcotics that has strong addictive power, but is useful for treatment, or is it included in Class III Narcotics, which is a type of narcotics that has mild addictive power, but is useful for treatment. Furthermore, Mufti said, the 1961 Narcotics Convention recognizes the sovereignty of the state in its domestic application, in accordance with Article 39 of the 1961 Narcotics Convention, where member states have the right to implement stricter domestic regulations, in accordance with their respective considerations, if a substance is seen as dangerous." In this case, Indonesia still has Law Number 35 of 2009 concerning Narcotics, where marijuana and its derivatives are included in Group I, which is very dangerous," explained Mufti. Mufti emphasized that the results of the study conducted by Indonesian health experts also showed results that were different from the recommendations of the World Health Organization - The Expert Committee on Drug Dependence (WHO-ECDD). This means that it is necessary to conduct a more in-depth study of the character of certain cannabis.

According to Rahmana Emran Kartasasmita in his presentation, the state needs to regulate substances or substances that have the potential or properties of poison. Including regulating drugs, especially drugs that are in the category of narcotics that have addictive effects and also the potential for abuse. Indonesia has regulated narcotics in Law Number 35 of 2009, which in essence narcotics are classified into Class I, Group II, and Group III narcotics. "Class I narcotics are indeed prohibited from being used for health purposes. However, it is not prohibited for the sake of science and technology development," said Rahmana, who is now a Professor in the Field of Pharmaceutical Chemistry in the Pharmacology Scientific Group, School of Pharmacy, Bandung Institute of

Technology. Rahmana then explains the aspects of safety, efficacy, and quality of a substance or substance used as a drug. According to him, safety, efficacy, and quality are requirements that must be met by a substance or suspension before it can be used as a drug for the benefit of health services and/or in other words used clinically. Proving safety, efficacy, and quality must be carried out since a substance or substance is still in the drug discovery and development stage "It is a research activity that includes a series of stages of preclinical and clinical testing. The process of drug discovery and development is clearly a scientific development activity or in other words research and development activities to obtain drugs that are suitable for use in health services for humans,". Furthermore, Rahmana said, in the process of drug discovery at the preclinical testing stage, the safety of a substance or substance is proven through toxicity testing, which in essence must be proven that the substance or substance tested based on sensitive rules is safe for use in humans. In addition, at this stage, he continued, the efficacy of a substance or substance is proven through a series of experimental pharmacological tests using test animals and it can also be proven that the tested substance is able to provide the desired pharmacological effect significantly. Narcotics for the Development of Science and Technology Constitutional Law Expert Ahmad Redi in his statement said that Article 4 letter a of the Narcotics Law has regulated the availability of narcotics for the benefit of science and technology development. The Narcotics Law provides the widest possible opportunity for various stakeholders to conduct research and development of narcotics."This is stated in the Provisions of Article 13 paragraph (1) of the Narcotics Law which regulates scientific institutions in the form of education and training institutions as well as research and development organized by the Government or the private sector can acquire, plant, store, and use narcotics for the benefit of science and technology after obtaining the Minister's permission. The Ministry of Health also issued the Decree of the Minister of Health Number HK.02/Menkes/118/2015 concerning Permits for Obtaining, Planting, Storage, and Using Cannabis and Cocoa Plants.

In article of Law No. 35 of 2009 concerning Narcotics and the article allows or is called an exception for narcotics for certain activities for research and medical activities. The controversy surrounding the legalization of marijuana for medical purposes has been increasing in recent years. From a medical point of view, the process of legalization as a drug must be carried out in accordance with the principles of drug development. The legalization must be supported by adequate clinical trial data in the form of drug doses registered with the Food and Drug

Inspection Agency (BPOM). From a legal point of view, cannabis cannot be regulated like other medicinal plants that do not contain psychoactive compounds. Going forward, coordination between all stakeholders will be needed to set regulations for the development and use of cannabis-derived drugs such as cannabidiol, taking into account the risks and benefits. Cannabis research must be regulated but remain open to scientific advances. In article 7 it is clear that the Law allows narcotics for health services and research, if you look at this article it is no longer debated, it is very clear. However, previously article 6 prohibited the use of class one narcotics, and the corresponding article, namely article 8, also prohibited the use of class 1 narcotics for health services. The next article, namely article 8 paragraph two, allows for diagnostic reagents, as well as laboratory reagents. In article 11 also the need for narcotics, the Law entrusts the Minister to regulate the procurement of narcotics for domestic needs, meaning that the article will be related to the use of narcotics themselves, for health or treatment in pharmaceutical activities, the Minister is given special authority to grant special permits in production and procurement as well as the final results of narcotics and through the supervision of the Food and Drug Supervisory Agency. While it is not explained specifically what type and class of narcotics are, it means that globally from the language, namely any narcotics, can be done with the mandate of the Law to the Minister of Health in the use of narcotics for the benefit of the public.

In Law No. 17 of 2023 Health

In the Preamble to the Constitution of the Republic of Indonesia in 1945. It has been ensured that everyone or any activity and effort to improve the highest degree of public health is carried out based on the principles of welfare, equity, non-discrimination, participatory and sustainable, which is very important for the formation of Indonesian human resources, increasing the nation's resilience and competitiveness, and national development. In Law No. 17 of 2023 Health Article 139 paragraph 1 Every person who produces, procures, stores, distributes, and uses drugs containing narcotics and psychotropics must meet certain standards and/or requirements, paragraph (2) The use of drugs containing narcotics and psychotropics can only be carried out based on the prescription of medical personnel and it is prohibited to be misused. Paragraph (3) The production, procurement, storage, circulation, and use of drugs containing narcotics and psychotropics as referred to in paragraph (1) shall be carried out in accordance with the provisions of laws and regulations.⁶⁰ reviews

In article 139 of Law No. 17 of 2023 concerning health, paragraphs 1 and 2 are very clear, that narcotics are allowed for medical purposes, and treatment, which in abuse is strictly prohibited in

b. Government decisions as derivatives of the Law

A Ministerial Regulation can be formed if there is a provision in a higher law or regulation that orders the formation of the Ministerial Regulation. Meanwhile, for Ministerial Regulations that are formed based on authority, it must be interpreted as the authority of attribution to form regulations, not based on the authority to administer the government. Even if there is no delegation authority, the Minister in forming a Ministerial Regulation must have the attribution authority given by the Law. The functions of Indonesian state ministries are indeed very diverse. Where, ministries or ministers have a role that cannot be separated from the planning, administration, and operational activities of the Indonesian state. Under the direct supervision of the President, the Minister carries out tasks related to statehood aimed at the progress of the Indonesian state.

Whereas, according to article 8 of the law of the Republic of Indonesia Number 39 of 2008 concerning state ministries, the functions of the Indonesian state ministry include:

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In carrying out its duties, the Ministry has responsibility for these affairs as stated in article 5 paragraph 1 which reads:

Formulation, determination, and implementation of policies in their fields.

Carry out the management of state property or wealth for which it is responsible.

Carry out supervision on the course of tasks in their fields.

Carry out technical activities from the central to the regions.

In carrying out their duties, Government department that run affairs as stated in Article 5 paragraph 2 of the Law which contains:

Formulating, determining, and do policy to their fields.

Managing the property or wealth of the state for which it is responsible.

carry out supervision and perform duties in their fields.

Providing technical guidance and supervision on the course of affairs in regional ministries.

Carry out technical activities on a national scale.

In doing his duties, Government department that run affairs as referred to in Article 5 paragraph 3 of the law, reads:

- a) Formulate and set policies for their fields.
- b) Coordinating and synchronizing the implementation of policies in their fields.
- c) Managing the property or property of the state for which it is responsible. Supervising the course of duties in their fields.

Factors that hinder the legalization of cannabis for treatment can be in Indonesia.

If you look at the development of this era or century, the problems, especially technology and health problems, are increasingly complex problems, therefore in certain countries, they always conduct research or research for a change for the sake of improvement for a society socially. In the social order of Indonesian society, marijuana is an illegal item, and individuals are not allowed to own these goods. Because of the understanding of the Indonesian people, these goods are prohibited and threatened with punishment, in accordance with the applicable laws in the country of Indonesia. So marijuana is very difficult to obtain, even for the sake of research and technology

The criminalization of narcotics cases began after Indonesia ratified the United Nations Convention by establishing Law No. 9 of 1976. Along the way, the law on narcotics has undergone several changes. One of them is with the enactment of Shrimp Law No. 5 of 1997 concerning Psychotropics and changed to Shrimp Law No. 22 of 1997 concerning Narcotics until finally enacted Shrimp Law No. 35 of 2009 concerning Narcotics until now. The United Nations Commission on Narcotics Certified Network Defender (CND) decided to remove marijuana from

Group IV of the 1961 Convention and keep it in Group I, Wednesday (2/12/2020). The decision was based on the results of the UN vote, 27 in favor and 25 against (27/25). Based on the official statement of the Certified Network Defender (CND), in January 2019, the World Health Organization (WHO) made a series of recommendations to change the scope of control of marijuana and cannabis-related substances. After intensive consideration, the Certified Network Defender (CND) commission made a decision based on the voting results, meaning that cannabis remains known as a substance that has the potential to be abused and remains under international control. With Certified Network Defender (CND) removing cannabis from Group IV and remaining in Group I, it means that cannabis or cannabis resin is recognized as a substance that has benefits for the world of health. Class I narcotics are drugs that can cause the effects of dependence and addiction. Class I narcotics can only be used for the purpose of scientific development and are not used in therapy. "And this (marijuana is in group I) can certainly push towards research. So that to overcome treatment by using narcotics or marijuana can be affected by several factors, including:

It is difficult to obtain and access marijuana legally for research purposes.

The need for research on marijuana is regulated in Law No. 35 of 2009 concerning Narcotics, namely in Articles 111, 113, 114, and 116: Article 111 Paragraph 1: "Every person who without rights or against the law grows, maintains, possesses, stores, controls, or provides Class I Narcotics in the form of plants, shall be sentenced to imprisonment for a minimum of 4 years and a maximum of 12 years and a fine of at least Rp 800 million and a maximum of Rp 8 billion". Paragraph 2 "In the event of the act of planting, maintaining, possessing, storing, possessing, or providing Class I Narcotics in the form of plants as referred to in paragraph (1) the weight exceeds 1 (one) kilogram or exceeds 5 trees, the perpetrator is sentenced to life imprisonment or imprisonment for a minimum of 5 years and a maximum of 20 years and a maximum fine as intended in paragraph (1) plus 1/3". And article 113 paragraph 1 Every person who without rights or against the law produces, imports, exports, or distributes Class I narcotics, shall be sentenced to imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of

Lack of literature on the problem of marijuana having a positive impact on health.

To overcome the above problems for the sake of treatment, Pemetinrah in this case the Minister of Health makes it easier to license cannabis research, and should also provide confidence and legal protection to scientists that the use of cannabis for medical purposes is feasible to be legalized. We believe that medical marijuana research is a "difficult and long journey". Meanwhile, Narcotics Law Number 35 of 2009 still prohibits the use of class I narcotics, including marijuana, in health and wellness services. So this hinders if individuals want to do research for the sake of progress and new discoveries for treatment. Including institutions or the world of education must have a special permit first, this special permit goes through a long process and takes a long time. So that research cannot be done, so that in terms of science, we have minimal literacy about marijuana. So that law and literacy become the way in place. Only a small part of the Indonesian people know and have seen cannabis plants or goods firsthand. Especially in the general public, marijuana will never be obtained legally. for research materials or marijuana that will be researched by the government to provide a guarantee of the existence of goods, in accordance with Law No. 35 of 2009 concerning narcotics article 9 paragraph 1) The Minister guarantees the availability of narcotics for the benefit of health services and/or for the development of science and technology. And Article 10 Paragraph (1) Narcotics for domestic needs are obtained from imports, domestic production, and/or other sources guided by the annual demand plan for Narcotics as referred to in Article 9 paragraph (3), Article 12 paragraph (1) Class I Narcotics are prohibited from being produced and/or used in the production process, except in very limited quantities for the purpose of scientific development and teknologi. ini are expected to answer concerns Many parties are related to the legalization of the use of marijuana in health services." These recommendations will be urgent such as the need for marijuana for stroke, diabetes, cancer, can be treated with real marijuana. Instead of saying endless, what always becomes an endless debate without a solution or a way out.

They also applied for a research permit to the Ministry of Health which was then approved in 2015 through the Decree of the Minister of Health of the Republic of Indonesia Number 118 of 2015. Unfortunately, even though they have obtained permission to conduct research, they are still hampered by bureaucracy so that until now, the status of the research is still hanging. The rules require the research team to be appointed by the Ministry of Health." From the Ministry of Health, there is not a single team appointed. There hasn't been one until now. Hopefully the new Permenkes will not be bureaucratic. In addition, the Ministry of Health

at that time also required that the research location must be carried out at the Tawangmangu Research and Development Center for Medicinal Plants and Traditional Medicine, Central Java. "That narrows the space for movement, even though the best marijuana is grown in Aceh for us to research the content. With the opportunity to issue new regulations, we government and non-government research institutions can have the opportunity to submit various studies related to the benefits of cannabis. "The important thing is to clearly research how large the number of plants is, the area wherever it is used as the object of research. So the nature of the research is more open, not as bureaucratic as before.

According to Iftitah, that article needs to be abolished from the Narcotics Law, whether it is through a material review lawsuit at the Constitutional Court that has been filed since 2020 or through the revision of the Narcotics Law. As long as there is still an article prohibiting class one narcotics for health services, yes, the research will be difficult. So the step for permission for the health minister regulation should be preceded by the revocation of the article. Meanwhile, a member of Commission III for Legal Affairs of the House of Representatives, said that the results of research related to medical marijuana will be considered as input in revising the ongoing Narcotics Law. Revision of the Narcotics Law

<https://bandaacehkota.bnn.go.id/kenapa-indonesia-menolak-legalisasi-ganja/>
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c. Lack of literature on the problem of marijuana that has a positive impact on health.

This stigma has resulted in Indonesia becoming low competitive, low in its human resource development index, low in innovation, low per capita income, and low in its nutrition ratio. It all ultimately affects the low happiness index of Indonesian citizens themselves. Therefore, there needs to be an upstream side, including the role of the state that can present books that suit the needs of the people from Sabang to Merauke, including for people living in remote areas. "There (the state) there is the executive, legislative, judiciary. There is also the role of experts from academics, there is the private sector, writers and publishers. The total number of reading materials with the total population of Indonesia has a national ratio of 0.09. This means that one book is awaited by 90 people every year, so Indonesia has the lowest level in the reading interest index. One of the

solutions that can be taken to reduce the ratio of book limitations nationally based on the results of discussions with a number of stakeholders in the region is for the Regents, Mayors, and Governors to be responsible for writing books that are in accordance with local content. Including related to the cultural origin, geographical origin, including the potential of natural resources, regional potential, tourism in each region to present proper reading materials with cultural wisdom in each region for residents in that area. "After all, is it relevant that books written in Jakarta should be distributed to our brothers and sisters in Papua who are related to local content This is due to the difficulty of accessing legal cannabis research. So for the development of research, it is also carried out on the spot. Everything related to marijuana is always brought to legal efforts to legalize marijuana, which always ends up being brought to court, namely through the Constitutional Court by testing the Narcotics Law. Practices like this always do not add to the popularity and prospects of marijuana in the future, it is always an endless debate, this is a practical way to legalize, but there is always no solution, in the context of research marijuana is always prohibited, difficult to develop, especially for medical purposes, what happens is that people are always self-taught. This is very limited public knowledge about marijuana, which they know is limited to being prohibited based on the law. Through this research, the author is very difficult to carry out research to find a lecture, all are very limited, the end of public knowledge is very trebats, which is only official, some agencies refuse to conduct research, because narcotics in Indonesian society are considered taboo.

Analysis of the results of the discussion

Based on Law No. 35 of 2009 concerning Narcotics Article 7 which reads that, Narcotics can only be used for the benefit of health services and/or the development of science and technology. The sound of article 7 is very clear and we don't need to interpret it anymore. Then Law No. 35 of 2009 concerning Narcotics. Article 8 paragraph 2 (two) In limited quantities, Class I Narcotics can be used for the purpose of scientific and technological development and for diagnostic reagents, as well as laboratory reagents after obtaining the approval of the Minister on the recommendation of the Head of the Food and Drug Supervisory Agency. It is clearly stated that narcotics can be used and are an integral part of the right to health services guaranteed in the constitution. However, in Indonesia it still cannot be used for health. From the principle of law itself based on the theory of justice, where is the justice? When talking about

justice in equality of rights and legal protection, Law No. 35 of 2009 concerning Narcotics is not fair, it is clear that there is already an article that allows, the community cannot do it or menjalankannya. ini clearly makes a loss of the right of patients to get health services that already exist in article 7 and article 8 paragraph 2.

In the case of cerebral palsy patients, which has occurred in Indonesia until it went through a long process for the judiciary to review Law No. 35 of 2009 concerning narcotics. and still has not yielded results, and until now it is still not possible to carry out treatment therapy with marijuana, which has been decided by the Constitutional Court to determine and reject the application for judicial review. So the government still prohibits marijuana from being used for medical purposes. Law or Law is a principle or concept that adheres to balance, is not biased, no one feels reduced, is the same and is not differentiated and the treatment is the same, fair to all people in the legal system. This means that all people, regardless of any background, whether race, creed, gender, sexual orientation or social status, have the same rights before the law and are the same age as the principle of the law itself. First, everyone is treated equally and objectively, without discrimination. Second, everyone has the same right to equal legal protection and the right to defend themselves in court. Third, legal decisions must be based on valid evidence and due process, with judges or law enforcement acting neutral and impartial.

We can see from the use of marijuana for medical purposes is strictly prohibited in Indonesia. We compare marijuana and morphine. Morphine is a high-level narcotic, strictly prohibited in Indonesia including in the world, morphine is usually used as an analgesic drug (pain reliever). To treat continuous severe pain such as cancer, pain after surgery, trauma or injury pain. Currently, many drugs that are made of morphine are prescribed by doctors, which means that they are very free to be used for health services. Or group I. between marijuana and morphine is the same as the high class or group I. is derived from Law No. 35 of 2009 concerning narcotics. For health purposes or activities, treatment is allowed. The question is why marijuana cannot be used for medical or slaughter. If you look at the comparison with morphine, marijuana should be able to be used, from the level of marijuana is lower than morphine. Why marijuana is treated differently means that it is discriminatory and unfair, even though the purpose and use of the law are socially the same as morphine, even lower than morphine. Patients are in dire need of cannabis therapy, such as the case of Disease

The use of drugs containing narcotics and psychotropics can only be carried out based on the prescription of medical personnel and is prohibited from being abused. In this article, it can be used to continue the practice of health services in the development of annual epidemiology. The ban caused the death of patients and the lack of knowledge in the field of narcotics. Law No. 35 of 2009 concerning narcotics is one of the provisions that makes medical scientists, researchers of science in order to develop for expertise in the field of health, narcotics research, especially marijuana. Law No. 35 of 2009 concerning narcotics should not only focus on the abuse of narcotics, especially ganjam to reduce the circulation of narcotics in the general public. The benefits of Law No. 35 of 2009 concerning narcotics. It is very easy to find The debate on the amendment of Law No. 35 of 2009 concerning narcotics to be revised by the Constitutional Court in order to ensure the usefulness and usefulness of marijuana can be for medical purposes. Judging from the theory of the usefulness of Law No. 35 of 2009 concerning narcotics. It is still not comprehensive to get the benefits of the law. If you look at it from the perspective of the general public. So that narcotics do not circulate freely in general, which is the basis for regulating all citizens. Protecting the nation from destruction, downturn, and the evils of the young generation due to narcotics, in other words, protecting the community from the evils of narcotics itself. which can endanger the future of the young generation which is the hope of the nation in the future. And narcotics can be controlled. The purpose of the law itself is to create order in the community, maintain security, and order, regulate and tat events that must be carried out. By all residents. However, unfortunately, Law No. 35 of 2009 on narcotics is still a debate, which when viewed from the human and medical sessions.

In the theory of coherence/consistency, this theory argues that a truth is when there is a coherence of non-contradictory meanings at the same time between two or more logics. Truth occurs when there is a conformity between the current statement and the previous statement. The source of truth according to this theory is logic (human) which inherently has a correhension. Coherent theories boil down to logical truth. The view of law enforcement why marijuana users for medical services or for treatment and development of science or research is declared illegal or unlawful, in violation of Law No. 35 of 2009 concerning narcotics, the prohibition of the use of narcotics is contained in Article 6 paragraph I. Article 8 paragraph I. Both the police and prosecutors and judges to look at marijuana from a legal perspective. And it is even a reference to ban all

activities related to marijuana.

4. Conclusion

Legalization of cannabis for treatment can be realized in Indonesia seen In terms of existing laws, in Law No. 35 of 2009 articles 7, 8 paragraphs 2, and 9.11, and Health Law No. 17 of 2023 article 139. Judging from the justice, usefulness, and consistency of the Narcotics Law and the Health Law, and Islamic religious law, there are those that allow, which through mechanisms or exceptions under certain conditions are allowed, and also from the sociology of society, marijuana is also used in daily life.

In the application or implementation of the legalization of marijuana for treatment, there are several factors that hinder the legalization of marijuana for treatment, the United Nations (UN) Single Convention on Narcotic Drugs (1961), which was ratified into Law No. 35 of 2009 concerning narcotics. It is difficult to obtain marijuana and access it legally for research purposes. Lack of literature on the issue of marijuana whether it has a positive impact It takes a long process to change the paradigm of the government and the public about marijuana, but this factor can be eliminated. With several stages that must be carried out by the government, by issuing a decree of the Minister of Health or a regulation of the Minister of Health. today's society, which is experiencing the development of a modern, all-complex, technological advancement that is increasingly advancing rapidly or sophisticated, society, especially Indonesia, certainly needs an equitable and fair, useful, and corrupt legal certainty.

References

- Anggriani, Friday 2020. Legal Philosophy, Pancasila University
- Aprita, serlika. Dan Adhitya, Tio (2020). Philosophy of Law. PT Rajagrafindo Persada . Depok
- Armia, Muhammad Siddiq (2022). Determination of Legal Research Methods & Approaches. Indonesian Institute for Constitutional Studies (LKKI) Ar-Raniry State Islamic University Banda Aceh
- Bernard L. Tanya, et al. (2013) Legal Theory of Human Order Strategy Across Spaces and Generations. Genta Publishing. Bantul-Yogyakarta
- Fios, F. (2012). Jeremy Bentham's legal justice and its relevance to contemporary legal practice. Humanities
- Kenre Ishak (2022). Anthropology & Sociology of Health. ITKesmu Sindrap
- Muchtar, Andhyka. et al. (2023). Thesis Writing Guidelines. Painan College of Law. Tangerang
- Muhaimin (2020). Legal Research Methods. Mataram University Press
- Muhson, A. (2006). Quantitative analysis techniques. Yogyakarta State University.
- Nasir. M (2023) Legal Research Methods. manggu amkmur Tanjung lestari Bandung. In Hamid Darmadi
- Nurhayati, Yati (2020). Introduction to Law. Nusa media (Ikapi) Ujung Berung Bandung
- Nuryadin, Afriyana Amelia et al. (2022) Basics of Public Health Science. Tahta Media Group (CV Tahta Media Group Publishing Group) Member of IKAPI.
- Puspitadewi, Retna Teresia et al (2022) Public Health Sciences. Zahir Publishing

- Retna Puspitadewi, Teresia et al (2022) Public Health Sciences. Zahir Publishing Yogyakarta
- Rusli, Tami (2017). Introduction to Law. Bandar Lampung University UBL Press
- Sinaulan, Ramlani Lina (2018) Legal Philosophy Textbook. Zahir Publishing Kadisoka RT. 05 RW.02, Purwomartani, Kalasan, Sleman, Yogyakarta
- Soepadmo, Nurianto Rachmad (2020) Textbook of Legal Philosophy. Zifatama Jawara Sidoarjo
- Sugianto, Ilyas (2023). The gap in the position and authority of the Corruption Eradication Commission, the Indonesian National Police and the Prosecutor's Office in the eradication of corruption. Thesis. Tangerang: Painan College of Law.
- Journal**
- Adlhiyati, Z., & Achmad, A. (2019). Tracking Justice in Polygamy Regulation: A Study of the Philosophy of Justice by Aristotle, Thomas Aquinas, and John Rawls. Law: Law Journal.
- Imaduddin, A., & Ulya, F. (2022). Dilemmas of the Use of Medical Cannabis in Indonesia (An Analysis of the Perspective of the Legal Constitution in Indonesia and Islamic Law). The Indonesian Journal of Islamic Law and Civil Law.
- Keladu, Y. (2023). Proportional Equality and Unequal Treatment in Aristotle's Theory of Justice. Discourses-Journal of Philosophy and Theology Stf Driyarkara.
- Maiwan, M. (2018). Understanding Ethical Theories: Horizons and Views. Scientific Journal of Democracy Pulpit, 17(2), p. 203 In Bertens, K. 2000. Introduction to Business Ethics, Yogyakarta: Kanisius
- Sembiring, R. (2018). Pancasila Justice in the Perspective of Aristotle's Justice Theory. Journal of Actual Justice, 3(2),
- Syibly, M. R. (2015). Social Justice in Sharia Finance. Millah: Journal of Religious Studies, p. 77 in Carl Joachim Friedrich, Philosophy of Law from a Historical Perspective, (Bandung: Nuansa dan Nusamedia, 2004.