

## Criminal Law Policy on the Legality of Using Class 1 (One) Type of Narcotics "Carbonate" for Health

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**Abstract.** *Marijuana in the world of health has positive benefits such as preventing glaucoma, increasing lung capacity, preventing seizures due to epilepsy, palliative therapy patient cancer, reduce chronic pain, overcome mental health problems, And slowing the development of Alzheimer's, but the absence of regulation of marijuana as a drug in Indonesia, marijuana is prohibited for use, including being developed for the medical world. This research aims to know and analyzing related legal perspective in viewing the use of Narcotics Class 1 (One) Type "Marijuana" For Health. To find out and analyze the weaknesses of legal certainty in usage issues of Narcotics Class 1 (One) Type "Marijuana" For Health. The type of research that the author uses is normative legal research. Based on the research results, it can be seen that the use of Class 1 Narcotics (One) Type "Marijuana" for Health has not been realized, this is because the legal paradigm in Indonesia views marijuana as a plant that is a raw material for narcotics which can be misused as a dangerous narcotic as seen in Article 11 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics. Legal weaknesses related to use of Class 1 (one) type of narcotics "marijuana" for health is the Republic of Indonesia Law Number 17 of 2023 concerning Health, the Republic of Indonesia Law Number 5 of 1997 concerning Psychotropics, and the Regulation of the Minister of Health of the Republic of Indonesia Number 13 of 2014 concerning Changes to the Classification of Narcotics do not explicitly regulate the use of marijuana for medical needs in Indonesia.*

**Keywords:** Criminal; Health; Law.

### 1. Introduction

Health is a state of well-being, both physically, mentally, spiritually and socially,

which enables everyone to live productively socially and economically.<sup>1</sup> Therefore, indirectly, health is the main capital that is very much needed by humans so that they can carry out productive activities for themselves and their surroundings.

In the Constitution of the Republic of Indonesia (UUD 1945), the basic principles regarding health can be found in Article 28H Paragraph (1), which states "Everyone has the right to a prosperous life physically and mentally, to have a place to live, and to have a good and healthy living environment."

This statement reflects that the state guarantees the right of every citizen to a healthy life, both physically and mentally. This concept is also in line with the principles of human rights (HAM), where the right to health is considered part of the right to a decent life. This article provides the basis for state policies that focus on improving the quality of public health.

Furthermore, Article 34 Paragraph (3) of the 1945 Constitution is also relevant in the context of health, which stipulates that: "Health service facilities are the responsibility of the state and must be provided to all Indonesian people."<sup>2</sup> This confirms that the state has an obligation to provide adequate health facilities for all people, guarantee equitable access to health, and ensure the welfare of the people in terms of health. The philosophical basis of these articles is the state's responsibility to protect citizens' rights, including the right to health, as part of efforts to realize better social welfare.

In recent years, there have been more than 1 (one) known cases of several people using class 1 (one) type of narcotics, namely marijuana (hereinafter referred to as marijuana) to treat their illnesses due to lack of funds or lack of adequate treatment in Indonesia. Etymologically, the term "marijuana" is taken from Sanskrit which has the same meaning as in Indonesia. While scientifically marijuana has the name "Cannabis sativa" which was given by Carrolus Linnaeus in 1753.<sup>3</sup> In fact, history itself says that "cannabis" or "marijuana" is one of the words with the oldest linguistic roots in the world.<sup>4</sup>

In Law Number 35 of 2009 concerning Narcotics, Article 7 states that Narcotics can only be used for health services and/or the development of science and technology. However, marijuana is not included in the group of Narcotics that can be used for health. This is because marijuana is included in group I

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<sup>1</sup>Indonesia, Law Number 36 of 2009 concerning Health (State Gazette of the Republic of Indonesia 2009 Number 114, Supplement to the State Gazette of the Republic of Indonesia Number 5063), Article 1.

<sup>2</sup>The 1945 Constitution of the Republic of Indonesia, Article 28H Paragraph (1) and Article 34 Paragraph (3).

<sup>3</sup>Aristedes Julian, *Allegory 420*, (Yogyakarta: Vice Versa Books, 2018), p. 1

<sup>4</sup>Lgn Team, *The Tale of the Cannabis Tree 12000 Years Fertilizing Human Civilization*, 2nd Edition (Jakarta: Gramedia Pustaka Utama, 2018), p. 4

narcotics.<sup>5</sup>and class I narcotics are prohibited from being used for health service purposes<sup>6</sup>

This makes marijuana a controversial plant because of its history that is closely related to culture in Indonesia. In Aceh, this plant functions as a flavoring for various types of dishes, such as goat curry, Acehnese dodol, Acehnese noodles, Acehnese coffee and so on to add flavor to food. History says that marijuana plants entered the Aceh region since the 19th century, originating from India. At that time, the Dutch opened coffee plantations in the Gayo Highlands and used it as a natural medicine to avoid attacks by coffee tree pests or caterpillars on tobacco plants. For many years and growing almost throughout Aceh, marijuana began to be consumed, especially made into 'delicious cigarettes, which gradually became a tradition in Aceh to other areas in Sumatra as an additional spice in cooking recipes.<sup>7</sup>

In Roman Civilization, the cannabis plant was a very strategic plant with various uses. Marijuana was used as an analgesic (pain reliever) in warfare, material for ropes, textile oil for lighting, cooking, and others. These many functions gave birth to the term "cannapaceus" or "canape" which means 'anything made from cannabis.<sup>8</sup>

Looking at other countries, several countries have legalized marijuana for medical use and to reduce crime. In June 2012, Uruguayan President Jose Mujica announced a plan to legalize the sale of marijuana controlled by the government. This plan is believed to later grow plants for non-commercial use and grant licenses to professional farmers for large-scale production. This plan will also use a system of users, taxes, and quality control, all coordinated through an agency formed by the government that monitors tobacco, alcohol, and drugs. The legalization was realized after the ratification of the bill on the legalization of marijuana on December 20, 2013,<sup>9</sup>and Uruguay became the first country to legalize marijuana.

Irish Health Minister Simon Harris has signed off on a five-year medical cannabis trial. Harris said the program is intended to facilitate cannabis only for medical purposes where conventional treatment has failed. The program will allow

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<sup>5</sup>Regulation of the Minister of Health of the Republic of Indonesia Number 50 of 2018 concerning Changes to the Classification of Narcotics

<sup>6</sup>Indonesia, Law Number 35 of 2009 concerning Narcotics (State Gazette of the Republic of Indonesia 2009 Number 143, Supplement to the State Gazette of the Republic of Indonesia Number 5062), Article 8.

<sup>7</sup>Hanri Aldino, "Student Perceptions of the Idea of Legalizing Marijuana in Indonesia", *Samudera Keadilan Law Journal*, Volume 13 Number 2, page 235

<sup>8</sup>Lgn Team, *Op. Cit.*, p. 5

<sup>9</sup>Pebrianto Nainggolan, "The Interest of the Uruguayan Government in Legalizing Marijuana During the Jose Alberto Mujica Cordano Administration in 2010-2015", *UR Fisip Journal*, Vol 2 Number 2

access to medical cannabis only for three conditions: nausea and vomiting that cannot be controlled in response to chemotherapy, severe epilepsy that is resistant to treatment, and treatment related to multiple sclerosis. The medical cannabis trial does not mean that medical cannabis production will be legalized in Ireland. Harris added that patients in the medical cannabis program will be covered by insurance. The program is a first step for Ireland to open access to medical cannabis. Harris stressed that the program is not a stepping stone to legalizing recreational cannabis and that most importantly there are no plans to legalize cannabis in Ireland. The five-year medical cannabis trial will be run under the supervision of Health Minister Simon Harris and will be reviewed in 2024.<sup>10</sup>

The next country is Thailand where it was legalized by the parliament formed by the Thai military regime. In its discussion, the Thai Parliament gave support for the amendment of the 1979 Narcotics Act. The Thai government officially legalized marijuana for medical purposes on January 1, 2019. Marijuana for medical purposes will then be strictly regulated by the Thai government through production and sales licenses. Personal ownership of marijuana in certain amounts is regulated by having a prescription and certification recognized by the government. The Thai government emphasized that the law also applies to Kratom which is a stimulant plant.<sup>11</sup>

Based on the controversial journey of marijuana which is illegal and strictly regulated in current Indonesian law, even though it is very close to the culture of some regions of Indonesia along with other uses that provide benefits, a very interesting controversial incident was born to be studied. This is seen from the existence of a group that supports the legalization of marijuana. This idea became a movement that was targeted at the community to agree and believe that marijuana should be a legal plant, especially in Indonesia. One of the initiators of the legalization of marijuana in Indonesia is a Non-Governmental Organization (hereinafter referred to as an NGO) called *Lingkar Ganja Nusantara*. This organization started as a Facebook group called "*Dukung Legalisasi Ganja*". With the aim of making marijuana legal in Indonesia, its administrators actively socialize the benefits of marijuana plants to all individual elements in Indonesia. On this basis, "*Lingkar Ganja Nusantara*" has activities as an NGO tasked with disseminating information and providing education about marijuana plants, their relationships and benefits for humans to the widest possible community.<sup>12</sup>

Case example, on February 27, 2019, Sutikno and Iqbal Munafi in Banyumas were caught because they were caught planting marijuana in a small pot in their

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<sup>10</sup>Anonymous, "Ireland Approves Term-Based Medical Cannabis Access". [www.lgn.or.id](http://www.lgn.or.id). Accessed June 10, 2019

<sup>11</sup>Anonymous, "Thailand Officially Legalizes Marijuana for Health. [www.lgn.or.id](http://www.lgn.or.id). Accessed June 10, 2019

<sup>12</sup>Hanri Aldino, *Op. Cit.*, p. 236 - 237

yard, they used the marijuana to treat their mother who was suffering from diabetes. One of the reasons he used marijuana was because of the lack of funds he had so he used marijuana.<sup>13</sup>

According to the author, this is interesting to be raised as a thesis because there is a fairly visible social gap between the Narcotics Law in Indonesia regarding the prohibition of the use of Marijuana and the benefits of Marijuana which are useful for health. After describing the background above, several reasons why marijuana is considered useful for health today include its potential in reducing chronic pain, helping treat anxiety and depression disorders, and supporting therapy for patients with sleep disorders.<sup>14</sup> Cannabis has also been studied for its role in reducing symptoms in patients with conditions such as multiple sclerosis and epilepsy. Research suggests that compounds in cannabis, such as THC and CBD, may provide therapeutic benefits, although there is still much to learn about safe dosages and long-term effects. However, it is important to note that its use should be strictly regulated, due to the potential for side effects and dependence.<sup>15</sup>

## 2. Research Methods

The type of research that the author uses is normative legal research. Normative legal research is legal research that places law as a normative structure. The normative system in question is about the principles, norms, rules of laws and regulations, court decisions, agreements and doctrines (teachings). This study research is normative juridical, namely the method that is shown and carried out towards the practice of implementing law, the legislative approach and comparative approach towards written laws and their practices, as well as books or those related to them, then connected to the case of Criminal Law Policy on the Use of Class 1 (One) Type of Narcotics "Marijuana" for Health, then analyzed.

## 3. Results and Discussion

### 3.1. Legal Perspective in Viewing the Use of Narcotics Class 1 (One) Type "Marijuana" For Health

#### 1) Narcotics Crimes as Serious Crimes in Legal Dimension

##### a. Narcotics Crimes As Serious Crimes in the Context of Damage Impact

Narcotics basically have an incredibly damaging impact, both for the individual

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<sup>13</sup> Anonymous, "Man from Banyumas Plants Marijuana to Treat His Mother". [www.tribunnews.com](http://www.tribunnews.com). March 3, 2019

<sup>14</sup>Reiman, A. (2016). Cannabis as a substitute for prescription drugs—Just the facts. *The Journal of Cannabis Research*.

<sup>15</sup>Whiting, P.F., et al. (2015). Cannabinoids for medical use: A systematic review and meta-analysis. *JAMA*.

user and for the nation and state. Compared to other age groups, the younger generation (15-35 years) has a higher risk of exposure to narcotics. This means that exposure to pollution is higher in the younger generation. Narcotics can have a negative impact on adolescents, such as reducing concentration and learning productivity, reducing the ability to distinguish between good and bad deeds, changing a person's behavior to be unwilling to socialize, increasing the risk of disease, mental disorders, and criminal acts. Good knowledge about narcotics also has a positive impact on the level of prevention of drug use. The use of narcotics can cause dependency syndrome, which causes behavior and cognition that are difficult to control and feelings to increase the dose, which can lead to a fatal overdose. The impact of narcotics on the health of users, most of whom are adolescents, can be concluded as follows:<sup>16</sup>

1) Narcotics affects the mental and physical health of adolescents. Drug use in adolescents can have negative impacts on physical and mental health. Drugs can cause or result in mental disorders such as depression, anxiety, mood disorders, psychosis, and increase the likelihood of dangerous behavior. In addition, drug use can harm physical health, such as reducing consciousness, damaging the immune system, increasing the risk of AIDS, heart failure, brain disorders, and digestive problems. For adolescents, drug use can also cause mental disorders such as depression, anxiety, and psychosis.

2) The Influence of Drugs in Education. Drug use in students can cause changes in appetite, insomnia, increased heart rate, slurred speech, loss of body coordination and so on. In addition, drug use can also affect academic or professional achievement, difficulty maintaining hygiene, significant weight loss, increased inclusive behavior, and problems at school. Drugs can even interfere with concentration, affect learning ability, and cause high school absenteeism. 3. The risk of committing crimes influenced by drugs. Involvement in crime is an activity related to drugs often broadcasts the law and can be punished. To reduce the possibility of violations of the law related to drug use, it is important to be aware of the dangers and threats associated with corruption. It is also important to get medical help and proper support for the recovery and rehabilitation of someone involved in drug problems. Drug use in adolescents can increase the likelihood of committing criminal acts. Adolescents who use drugs are at higher risk of developing problems such as depression, anxiety, bipolar disorder, and criminal behavior; drug use can also increase the likelihood of being involved in violence, criminal acts, and conflicts with the law. In addition, drug users tend to engage in illegal activities to obtain drugs, such as theft, fraud, and drug trafficking. Therefore, it is important to raise awareness about the dangers of drugs and provide education and support to prevent the negative effects of drugs on the younger generation.

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<sup>16</sup>Katryn NN. Pakpahan and Debora, "The Influence of Drug Abuse and Prevention among Adolescents in Indonesia", Qistina, Vol. 3, No. 2, 2024, pp. 1867-1869.

3) Narcoticsmaking teenagers dependent and overdose. Teenage health can be affected by several types of drug dependence and overdose such as disorders of the nervous system (neurological) where drug use can experience seizures, hallucinations, impaired consciousness, and damage to the nerves. Dependence (addiction) can cause physical and psychological drug use dependence.

4) The direct impacts are convulsions, hallucinations, aggressive behavior, chest tightness, hemoptysis, poor breathing, and fatigue are the side effects of drug use. The indirect impacts are that drugs can cause property and money to be drained, ostracized by the community, and removed from social circles.

The impact of narcotics based on the type of narcotics according to the National Narcotics Agency consists of:<sup>17</sup>

a) Depressant

It is a type of narcotic that inhibits brain function and slows down body activity. Users become sleepy, too calm and slow to respond. Pain and stress are temporarily lost. Examples: Morphine, heroin/putauw, alcohol.

1) Morphine

Morphine has the following effects:

- a) Euphoria or excessive pleasure;
- b) Creates tolerance and dependency;
- c) Causes withdrawal symptoms, namely pain, fever, sweating and shivering; and
- d) Death due to respiratory arrest.

2) Heroin (Putauw)

Heroin (Putauw) has the following effects:

- a) Euphoria or excessive pleasure;
- b) Creates tolerance and dependency;
- c) Causes withdrawal symptoms, namely pain, fever, sweating and shivering;
- d) Death due to alternating respiratory arrest can be caused by Hepatitis B, C and HIV/AIDS viruses;
- e) Impotence;

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<sup>17</sup>National Narcotics Agency, *Drugs and Their Problems*, Deputy for Prevention of BNN, Jakarta, 2017, pp. 9-17.

f) Causes sakauw (withdrawal due to stopping the supply of heroin/putauw) with symptoms of nausea, fever, pain in the bones and joints, runny eyes and nose, excessive sweating and shivering.

### 3) Alcohol

The effects of alcohol include:

- a) Alcohol is absorbed by the body and enters the blood vessels;
- b) Loss of consciousness, drunk, staggering, slurred speech, violence, accidents due to drunk driving;
- c) Damages the liver, lymph nodes, peripheral nerves of the brain, heart disorders, cancer and babies born with birth defects from alcoholic mothers.

### b) Stimulant

It is a type of narcotic that stimulates brain function and increases body activity. People become overly excited and alert due to increased body activity. Examples include cocaine, Amphetamine Type Stimulants (ATS), Methamphetamine (Sabu), ecstasy.

### 1) Cocaine

The effects of cocaine are:

- a) Euphoria (excessive feeling of joy/pleasure);
- b) Reduces the amount of dopamine or receptors in the brain; maximum of physical and mental strength;
- c) Behavior leading to violence;
- d) Weight loss, impotence, hallucinations (seeing or hearing things), paranoia (excessive suspiciousness);
- e) Damage to blood vessels in the brain which can lead to stroke or rupture of blood vessels in the brain;
- f) Still feel active even though your body is very tired;
- g) If the body can no longer bear the burden, it can collapse and die from exhaustion;
- h) *Overdose*, causing liver and lung damage and even death.

### 2) Ecstasy (Designed Substance)

Symptoms of ecstasy are:



- a) Emotional warmth increases;
- b) Intimacy increases;
- c) Decreased appetite;
- d) Sweating a lot;
- e) Uncontrolled body movements;
- f) Blood pressure rises;
- g) Heart rate and pulse increase rapidly;
- h) Hallucinations (tripping) in the form of scary floating feelings, seizures, panic, irritability and committing unreasonable violence.

c) Hallucinogen

It is a type of narcotic that comes from plants or is made through chemical formulation. The hallucinogenic effect can change and cause distortion of perception, thoughts and the environment. Resulting in a sense of terror and sensory chaos such as "hearing" colors or "seeing" sounds, paranoia, increasing the risk of mental disorders. Examples of hallucinogens are marijuana plants and inhalants.

1) Cannabis Plant

The effects of the marijuana plant are:

- a) Decreased memory;
- b) Loss of control and balance;
- c) Marked changes in emotions or feelings;
- d) Restlessness, fear and hallucinations;
- e) Apathy and depression;
- f) Excessive anxiety and panic;
- g) Poor body balance and coordination.

2) Inhalants

- a) Shame is reduced;
- b) Sleepy;
- c) Headache;

- d) Nervous;
- e) Visual disturbances;
- f) Unaware of his surroundings;
- g) Death.

Meanwhile, the prohibition on growing and using marijuana can be seen in Article 11 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics, which states that:

(1) Any person who without rights or against the law plants, maintains, possesses, stores, controls, or provides Class I Narcotics in the form of plants, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least IDR 800,000,000.00 (eight hundred million rupiah) and a maximum of IDR 8,000,000,000.00 (eight billion rupiah).

(2) In the case of the act of planting, maintaining, possessing, storing, controlling or providing Class I Narcotics in the form of plants as referred to in paragraph (1) weighing more than 1 (one) kilogram or more than 5 (five) tree trunks, the perpetrator shall be punished with life imprisonment or a minimum imprisonment of 5 (five) years and a maximum imprisonment of 20 (twenty) years and a maximum fine as referred to in paragraph (1) plus 1/3 (one third).

Based on the provisions Article 11 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics clearly states that marijuana, which is a class I narcotic, is prohibited from being planted, unless it is intended for licensed research and permitted by the Ministry of Health. Marijuana is also regulated in the Regulation of the Minister of Health of the Republic of Indonesia Number 13 of 2014 concerning Changes in the Classification of Narcotics. According to the attachment to the Regulation of the Minister of Health Number 13 of 2014 concerning Changes in the Classification of Narcotics point 8, it is stated that marijuana plants, all plants of the genus cannabis and all parts of the plant including seeds, fruit, straw, processed products of marijuana plants or parts of the marijuana plant including marijuana resin and hashish. This ministerial regulation does not clearly regulate the use of marijuana for health purposes.

The Constitutional Court has also rejected a request for the legalization of marijuana for medical purposes. This was decided in the Constitutional Court Decision Number 106/PUUXVIII/2020. The Constitutional Court (MK) rejected the lawsuit filed by Pipit Sri Hartanti and Supardji regarding the legalization of medical marijuana. In their petition, the applicants considered that medical marijuana could be used as a therapeutic treatment, but was hampered by

regulations. The applicants requested that Article 1 number 2 of Law Number 8 of 1976 concerning the Ratification of the 1961 Single Convention on Narcotics and the protocol that amended it be declared contrary to Article 28H paragraph (2) of the 1945 Constitution and have no binding legal force. Pipit and Supardji are the parents of Shita Aske Paramitha who has had cerebral palsy since childhood. According to him, therapy using oil from a cannabis formulation or marijuana with cannabidiol and THC content is effective for children suffering from complex motor disorders. In legal considerations, Constitutional Justice Guntur Hamzah stated that first, Indonesia has not ratified document E/CN/7/2020/CRP.19, so Indonesia is not bound to legalize the use of medical marijuana for health services. Second, class I narcotics (marijuana and its derivatives) can only be used for the purpose of developing science and cannot be used in therapy. This has a high potential to cause dependency as emphasized in Constitutional Court Decision Number 106/PUUXVIII/2020 which stated that there was no evidence of comprehensive assessment and research (after the decision) on the use of marijuana or cannabis substances for health services. Third, the issue of the constitutionality of this petition is basically the same as case 106/PUUXVIII/2020, namely regarding the use of marijuana for health services. Fourth, the considerations in the previous decision also apply in the considerations for this case. Therefore, the Constitutional Court reiterated that the government should immediately conduct a special study regarding the use of marijuana for medical purposes in Indonesia so that the issue can be resolved immediately and answered rationally and scientifically. The study is needed considering that every day there are more and more aspirations from the community regarding the need to use marijuana for health and humanitarian reasons. The Head of the National Narcotics Agency (BNN) of the Republic of Indonesia, Marthinus Hukum, supports the Constitutional Court's Decision. From a medical perspective, he believes that excessive use of marijuana will affect human nerves. In addition, from various studies, Marthinus revealed that there are no medical benefits regarding the use of marijuana. Meanwhile, from an ethical perspective, the effects of marijuana are extraordinary, causing dependence for its users. Based on medical and ethical considerations regarding the prohibition of marijuana, in principle, the classification of narcotic substances is the right of every country as long as it is carried out with good intentions for the development of health services and the ability to control substances by ensuring that distribution permits are in accordance with their intended use. The Constitutional Court emphasized that the government should immediately conduct a special study on the use of marijuana for medical purposes. This is important considering the increasing aspirations of the community regarding the need to use marijuana for health purposes and humanitarian reasons. Meanwhile, Law Number 35 of 2009 concerning Narcotics in Article 8 paragraph (1) explicitly states that Class I Narcotics, which includes marijuana, are prohibited from being used for health service purposes. Therefore, Commission

III of the Indonesian House of Representatives needs to encourage the government to immediately conduct a study in an effort to resolve and clarify the use of marijuana, as emphasized by the Constitutional Court. This is because the issue of narcotics is a transnational problem, so the legal aspect needs to be prioritized.<sup>18</sup>

Based on the various explanations available, it is clear that the paradigm of the majority of legal personnel in Indonesia views marijuana as a plant that is a raw material for narcotics which can be misused as a dangerous narcotic as seen in Article 11 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics. Whereas marijuana has several health benefits, namely:<sup>19</sup>

a. Prevent glaucoma

This plant has the potential to treat and prevent glaucoma in the eyes. Glaucoma is a disease that increases pressure in the eyeball, damages the optic nerve, and causes someone to lose their vision. According to research conducted by the National Eye Institute, marijuana may be able to lower intraocular pressure (IOP), aka eye pressure, in people with normal pressure and people with glaucoma. This effect can slow the progression of glaucoma and prevent blindness.

b. Increase lung capacity

A study published in the Journal of the American Medical Association (2012) stated that marijuana leaves have the potential to increase the capacity of the lungs to hold air when breathing. This is related to the way marijuana is used, which is usually inhaled deeply. Therefore, researchers concluded that this may be a kind of exercise to improve lung function. In the study, researchers took samples from 5,115 young adults for more than 20 years. Participants who were tobacco smokers lost lung function over time, but marijuana users showed an increase in lung capacity.

c. Prevent seizures due to epilepsy

A study in the journal *Cureus* (2018) showed that marijuana has the potential to treat epilepsy and help relieve patient symptoms. Epilepsy with drug resistance. Cannabinoid content in marijuana leaves believed helps relieve seizures in epilepsy patients. This compound plays a role in reducing the release of neurotransmitters (nerve stimulation signals) in the central nervous system (CNS), thereby preventing seizures.

d. Palliative therapy patient cancer

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<sup>18</sup> [https://www.mkri.id/public/content/persidangan/putusan/putusan\\_mkri\\_8588\\_1658299840.pdf](https://www.mkri.id/public/content/persidangan/putusan/putusan_mkri_8588_1658299840.pdf), May 12, 2025.

<sup>19</sup> <https://hellosehat.com/herbal-alternatif/herbal/manfaat-ganja-secara-medis/>, May 12, 2025.

The content in marijuana leaves according to the American Cancer Society may be able to help improve the quality of life of cancer patients. Marijuana has the potential for palliative therapy or adjunct treatment to relieve chronic pain experienced by cancer patients. In addition, marijuana leaves are claimed to be able to help fight nausea and vomiting as side effects chemotherapy. Although many studies have shown its safety, this plant is not effective in controlling or curing cancer.

e. Reduce chronic pain

Reported from Harvard Health Publishing, this plant can be considered to be able to relieve pain caused by: multiple sclerosis, neurological disease, HIV-associated wasting syndrome, irritable bowel syndrome, and Crohn's disease.

f. Overcoming mental health problems

A study published in Clinical Psychology Review (2017) showed the potential benefits of cannabis to help with certain mental health issues. Researchers found that the plant helped relieve symptoms of depression and symptoms of post-traumatic stress disorder. However, marijuana is not an appropriate medication for mental health problems, such as bipolar disorder and psychosis. The reason is, this one plant can actually worsen the symptoms of people with bipolar disorder.

g. Slowing the progression of Alzheimer's

A study published in Molecular Pharmaceutics shows that the THC content in marijuana leaves can slow the formation of amyloid plaques. Plaques that form due to Alzheimer's can kill brain cells. THC in marijuana helps block the enzyme that forms amyloid plaques in the brain. However, this research is still in its early stages so it still requires further testing. You need to remember that marijuana is an illegal item that is included in the category of illegal drugs. In the law, marijuana is included in class I narcotics along with crystal methamphetamine, cocaine, opium, and heroin. Consuming and cultivating marijuana can get you caught in criminal law.

The prohibition of medical marijuana use in health law policy in Indonesia is different from Argentina. Since 2020, Argentina has allowed medical marijuana use. Citing various sources, to get marijuana, a person must get a prescription from a health care provider. Medical marijuana authorities in Argentina also only allow marijuana to be given to patients with certain diseases, such as chronic pain conditions, epilepsy, autism, and several others.<sup>20</sup>

### **3.2. Weaknesses of Legal Certainty in the Issue of Use Narcotics Class 1 (One) Type "Marijuana" For Health**

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<sup>20</sup> <https://www.cnnindonesia.com/gaya-hidup/20220627181022-260-814156/9-negara-yang-melegalkan-ganja-untuk-keperluan-medis/2>, May 12, 2025.

Legal weaknesses related to use Class 1 (one) type of narcotics "marijuana" for health is the Republic of Indonesia Law Number 17 of 2023 concerning Health, the Republic of Indonesia Law Number 5 of 1997 concerning Psychotropics, and the Regulation of the Minister of Health of the Republic of Indonesia Number 13 of 2014 concerning Changes to the Classification of Narcotics do not explicitly regulate the use of marijuana for medical needs in Indonesia. The paradigm of most legal personnel in Indonesia views marijuana as a plant that is a raw material for narcotics which can be misused as a dangerous narcotic as seen in Article 11 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics. This is not entirely true, this view was born because of the large number of illegal marijuana abuses and not for medical purposes but for the trade and use of marijuana illegally and without medical permission.

Based on the understanding that has emerged in society, narcotics are always associated with things that are forbidden, haram, and taboo to use. It is not uncommon for someone who uses this object to be considered a sinner, criminal, and a disease in society. Simply put, there will be a label or stigma for people who use drugs. In reality, the implementation of the narcotics law is no longer relevant to the current reality where marijuana is greatly needed as an alternative treatment and marijuana itself has been proven to have extraordinary benefits in the medical world and with the current facts where the UN and the drug commission have removed marijuana and marijuana resin from schedule IV of the single narcotics convention. Therefore, it is hoped that the government can immediately revise the narcotics law because as proposed in the progressive legal theory that law in this case the law must be viewed in the process of becoming (Law as a process, law in the making) it is not absolute but must move following the dynamics of human life and continue to change for the better, because when we accept the law as a final scheme, the law no longer appears as a solution to humanitarian problems. Marijuana is indeed very dangerous if consumed by humans excessively because it can cause severe intoxication, it is a pro and con about the legalization of marijuana in Indonesia even though it is used for the medical sector. However, it should be noted that in reality marijuana provides many benefits, one of which is in the medical sector, this can be seen from studies conducted by experts. If the benefits of marijuana continue to be illegal in Indonesia, it will be very unfortunate, many people who suffer from diseases such as cancer, lungs, mental disorders, and others more or less need marijuana as a development of someone's healing. Although it is forbidden in religion, but if it is for healing, marijuana can be used. For this reason, it is necessary to take legal steps that can be taken to legalize the use of marijuana for medical purposes in Indonesia, namely by revising the Narcotics Law and removing marijuana from narcotics group I, because in reality the validity of the narcotics law is no longer relevant to the current reality. The legal vacuum related to the regulation of marijuana for legal purposes has resulted in a legal vacuum and the absence of legal benefits related to the legal position of

marijuana as a medicinal ingredient in the medical world. So that marijuana has never been an object of research for the development of medical technology in the country.

Law in its positive form (statutory regulations) must provide a benefit to someone. In terms of the benefits of this law, the utility theory recommends the greatest happiness principle. Strictly speaking, according to this theory, an ideal society is a society that tries to increase happiness and reduce unhappiness, or a society that tries to provide the greatest possible happiness to the people in general, so that unhappiness is felt as little as possible by the people in general.<sup>21</sup>Happiness means pleasure or the absence of misery, unhappiness means misery and the absence of pleasure. Everyone is considered equal by the utility theory. The utility school pioneered by Jeremy Bentham, assumes that the purpose of law is solely to provide the greatest benefit or happiness to as many citizens as possible.<sup>22</sup>The emphasis is based on the social philosophy that every citizen seeks happiness and the law is a tool. In relation to the national alert program, all regulations that are positive must prioritize the principle of benefit as well as the principles of justice and certainty.

#### 4. Conclusion

UseClass 1 Narcotics (One) Type "Marijuana" for Health has not been realized, this is becauseThe legal paradigm in Indonesia views marijuana as a plant that is a raw material for narcotics which can be misused as a dangerous narcotic as seen inArticle 11 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics. Legal weaknesses related to useClass 1 (one) type of narcotics "marijuana" for health is the Republic of Indonesia Law Number 17 of 2023 concerning Health, the Republic of Indonesia Law Number 5 of 1997 concerning Psychotropics, and the Regulation of the Minister of Health of the Republic of Indonesia Number 13 of 2014 concerning Changes to the Classification of Narcotics do not explicitly regulate the use of marijuana for medical needs in Indonesia.

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<sup>21</sup>Abdul Chair Ramadhan, *Development of Legal Philosophy*, (Jakarta: BP iblam, 2006), p.53.

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