

Research Article

Legal Analysis of the Classification of Marijuana as a Class I Narcotic Under the Narcotics Law

Yulizar ^{1*}, Mohd.Din ², Adwani ³

¹ Fakultas Hukum; Universitas Syiah Kuala, Indonesia; e-mail: yulizar.yulix@gmail.com

² Fakultas Hukum; Universitas Syiah Kuala, Indonesia; e-mail: m_din@usk.ac.id

³ Fakultas Hukum; Universitas Syiah Kuala, Indonesia; e-mail: adwani@usk.ac.id

* Corresponding Author: yulizar.yulix@gmail.com ¹

Abstract: The circulation of narcotics as a serious crime in Indonesia faces the reality that some types of narcotics have medical benefits when used in limited quantities and under strict supervision, while cannabis plants remain classified as Class I Narcotics in Law No. 35 of 2009 concerning Narcotics, thereby prohibiting their use in health services. This situation raises legal issues regarding the basis for classification, legal qualifications, and the possibility of updating norms so that cannabis can be used for medical purposes. This study aims to analyze the historical and legal basis for the classification of cannabis, its qualification in the national legal system, and to formulate a normative regulatory concept that allows its use for health services. The method used is normative legal research with a historical and comparative approach, through a literature study of primary and secondary legal materials, which are analyzed descriptively and qualitatively. The results of the study show that the classification of cannabis is rooted in international commitments through the 1961 Single Convention on Narcotic Drugs, which was later ratified and adopted into national law, so that legally cannabis is only permitted for research purposes. However, considering the development of science and practice in various countries, it is necessary to update the norms through the formation of a Ministerial Regulation as mandated by Article 6 paragraph (3) of the Narcotics Law as a limited and controlled first step to open up the use of cannabis in health services without neglecting the principle of preventing abuse.

Keywords: Cannabis Plant; Class I; Health Services; Medical Cannabis; Narcotics.

1. Introduction

One of the criminal acts that has been in the spotlight due to its high crime rate is the distribution of narcotics. The eradication of narcotics crimes continues to this day. The phenomenon of narcotics is indeed one of the problems in society. Narcotics are included in a term called NAPZA, which stands for Narcotics, Alcohol, Psychotropic Drugs, and Other Addictive Substances. Narcotics are also known by another term, namely Narkoba, which is an abbreviation of narcotics and dangerous drugs or substances.

Regarding narcotics, M. Arief Hakim stated that narcotics cause many harms and have (almost) no benefits. Some types of narcotics only have benefits if they are used for scientific, therapeutic, and medical purposes. The condition is that they must be under the strict and focused supervision of competent experts. Their use is also very limited and must be according to a doctor's instructions. Outside of that, narcotics can damage physical and psychological health, body and soul. Narcotics are also closely linked to the world of crime and violence (M. Arief Hakim, 2004).

The Definition of Narcotics in the Law of the Republic of Indonesia No. 35 of 2009 on Narcotics (hereinafter referred to as the Narcotics Law) Article 1 paragraph (1) defines narcotics as substances or drugs derived from plants or non-plants, whether synthetic or semi-synthetic, that can cause a decrease or change in consciousness, loss of sensation, reduction or elimination of pain, and can cause dependence, which are classified into categories as attached to this law (Mardani, 2008).

In its considerations, letter (d) of the Narcotics Law explains that importing, exporting, producing, planting, storing, distributing, and/or using narcotics without strict and careful

Received: December, 12 2025

Revised: January, 14 2026

Accepted: February, 09 2026

Online Available: March, 11 2026

Current Version: March, 11 2026



Copyright: © 2025 by the authors.

Submitted for possible open

access publication under the

terms and conditions of the

Creative Commons Attribution

(CC BY SA) license

([https://creativecommons.org/li](https://creativecommons.org/licenses/by-sa/4.0/)

[censes/by-sa/4.0/](https://creativecommons.org/licenses/by-sa/4.0/))

control and supervision and in violation of laws and regulations constitutes a narcotics crime because it is very harmful and poses a great danger to the lives of humans, society, the nation, and the state, as well as Indonesia's national security.

Based on these provisions, it can be interpreted that narcotics crimes are the import, export, production, cultivation, storage, distribution, and/or use of narcotics without strict and careful control and supervision and in violation of laws and regulations, which means that they are criminal acts.

Narcotics also play a very important role in the field of health, namely as anesthetics and painkillers, as well as several other functions in the field of health. The Narcotics Law guarantees the availability of narcotics for health services and guarantees the regulation of medical rehabilitation efforts for narcotics addicts and abusers. Article 1 point 22 of the Narcotics Law also appoints the minister of health as the minister responsible for administering and ensuring the availability of narcotics for medical purposes. One type of narcotic that is abused is marijuana. Cannabis is a gateway drug because cannabis users tend to have a greater risk of using harder addictive substances. According to a survey, around 98% of heroin users started out using cannabis (M. Arief Hakim, 2004). In 2013, the National Narcotics Agency confiscated 17,763,959.76 grams of marijuana leaves as evidence, and in 2014, 8,907,706.69 grams (National Narcotics Agency, 2014).

Specifically, Article 7 of the Narcotics Law states that narcotics can only be used for health services and/or scientific and technological development. This is further reinforced by the Decree of the Minister of Health of the Republic of Indonesia Number 132/Menkes/Sk/III/2012 concerning permits to obtain, plant, store, and use papaver, cannabis, and coca plants for use in research for the purpose of scientific development.

Cannabis plants are classified as Class I narcotics, which Article 8 of the Narcotics Law states:

- a. Class I narcotics are prohibited from being used for health care purposes.
- b. In limited quantities, Class I narcotics may be used for scientific research purposes related to technology and for diagnostic reagents, as well as laboratory reagents, after obtaining approval from the Minister based on the recommendation of the Head of the Food and Drug Supervisory Agency.

Cannabis plants have medical benefits, but Article 8 paragraph (1) of the Narcotics Law explicitly prohibits the use of Class I Narcotics for health purposes, while cannabis plants are classified as Class I Narcotics, the use of which is only for scientific development purposes and not for therapeutic use, and has a very high potential for dependence.

The classification of cannabis as a Class I narcotic in the Narcotics Law creates many obstacles to its use in medicine, considering that several countries have begun to legalize cannabis for medical purposes, including Germany, which began to relax regulations on cannabis use for patients with severe illnesses in 2017.

According to German Federal Health Minister Herman Grohe, cannabis was legalized to aid in the recovery of patients suffering from severe pain. The draft law, which is expected to come into effect in the spring of 2017, was recently approved by the German government's Federal Council (). Other countries that allow the use of cannabis for medical purposes include Italy and the Czech Republic (Pascal S Bin Saju, 2017).

One clear example in Indonesia is its use as a treatment for cerebral palsy, where a 13-year-old child suffering from the disease gradually improved after consuming cannabis paste. There are around 5,000 people suffering from cerebral palsy in the Yogyakarta area alone (Valdy Arief, 2023).

A legal rule or law must contain three elements: legal justice, legal certainty, and legal utility. Legal justice is the main objective of rules or laws, legal certainty is a necessary part of efforts to uphold justice so that every act that occurs will receive an appropriate sanction, and then benefit is attached to the law as a tool to guide the community so that they do not violate justice (Sudikno Mertokusumo, 2005).

In practice, the value of legal certainty is more prominent than legal justice and benefit, so that in its application, many problems arise related to law enforcement where the community feels disappointed with a judge's decision that is considered to violate the community's sense of justice and only prioritizes procedural law enforcement. Therefore, by considering the benefits of law and legal justice, the government should consider relaxing regulations governing the use of cannabis, especially in the medical field.

Considering the potential of cannabis for health purposes, the Narcotics Law should provide space for the use of cannabis in the medical field and provide exceptions by

establishing specific regulations regarding the use of cannabis in the medical field without reducing the applicable regulations on criminal acts of cannabis abuse.

2. Research Method

In conducting research, accurate data is needed, both primary data and secondary data. In order to obtain the data required for this writing that meets the requirements, both quality and quantity, certain research methods are used. The research method in this writing is a normative juridical method, where normative juridical research is legal research carried out by researching library materials or secondary data (Soerjono Soekanto & Sri Pamudji, 2011). Based on the background above, the problem formulation in this research focuses on "Juridical Analysis of the Classification of Cannabis as a Class I Narcotic in the Narcotics Law".

3. Results and Discussion

Basis for Classifying Cannabis as a Class I Narcotic

The history of cannabis being included in the same category as heroin, morphine, and cocaine refers to the 1911-1912 International Opium Convention in The Hague, Switzerland. This conference made opium and its derivatives, such as morphine, codeine, and heroin, the main topics of discussion. Italy submitted a proposal presented by Brenier, a delegate from France, to strictly regulate the distribution of opium and impose sanctions on its owners. Brenier requested that these regulations also apply to the use and possession of cannabis. However, because the Italian delegate, Santoliquido, was absent, this proposal was not discussed further. At the Second International Opium Convention in Geneva in 1924-1925, cannabis was not yet on the agenda. However, proposals were made by the delegations from Egypt, South Africa, and Turkey to include cannabis in the regulation and prohibition of the (LGN Team, 2013).

South Africa and Turkey did not make any further efforts to have their proposal discussed at the convention, while the Egyptian delegate, El Guindy, fought for it persistently. The Egyptian delegation's proposal used five medical references that were too outdated. Three of them were taken from 19th-century research and some others were even from 1845. The Egyptian delegation's argument did not receive any response from the Chinese delegation, Mr. Sze, or the American delegation, Stephen G. Porter. Both stated that they knew nothing about the cannabis plant. At the end of the debate, it was decided to refer the matter to Committee F. On December 15, 1924, the committee referred the discussion to a subcommittee consisting of eight (8) country delegates: Britain, Chile, Egypt, France, Greece, Japan, Turkey, and the United States. During further discussions on December 17, 1924, the countries participating in the convention (except for the United Kingdom, the Netherlands, and India, which chose to abstain) agreed to restrict the use of cannabis and impose sanctions (LGN Team, 2013).

On February 14, 1925, the Second International Opium Convention ratified the international ban on cannabis cultivation. The United Kingdom, India, and the Netherlands finally agreed to the decision. However, India added a note stating that it would be difficult for the country to regulate the cannabis trade because the plant was widely used for spiritual, cultural, and religious purposes. Since the Second International Opium Convention, cannabis has been classified as a narcotic plant alongside opium, heroin, morphine, and cocaine. The most important note is that no cannabis experts were present at the convention (LGN Team, 2013). The decision to categorize cannabis as a narcotic was made without scientific debate.

Then in 1946, the United Nations Commission on Narcotic Drugs issued a medical opinion report from representatives of the Mexican government which concluded that marijuana posed no real danger and had very little influence on criminal behavior. Representatives from the United States disagreed with this view and presented various pieces of evidence supporting the opinion that marijuana use is correlated with crime. Representatives from India expressed their opinion based on moderate cannabis use in their country, stating that the effects of cannabis depend on the psychological and genetic predisposition of each individual. In 1953, corporate interests in cannabis legislation began to emerge, and the UN Commission on Narcotic Drugs tasked the FAO (Food and Agriculture Organization) with finding alternative sources of fiber to cannabis. The WHO (World Health

Organization) was also tasked with investigating the mental and physical effects of cannabis consumption on humans.

In 1954, a WHO expert committee advised the Commission on Drugs Liable to Produce Addiction that processed cannabis products had no medical use whatsoever. The WHO's advice was reaffirmed and became the basis for the prohibition of cannabis in the 1961 UN Single Convention on Narcotic Drugs. This convention resulted in the consolidation of various previously agreed international agreements on narcotics. This UN convention, together with its 1972 amendment, added to the 1971 and 1978 UN Anti-Drugs Treaties, which form the basis for the implementation of anti-narcotics systems in countries around the world today, including Indonesia.

Based on this explanation, it can be concluded that the inclusion of cannabis in the same classification as opium, heroin, and cocaine was due to the absence of parties who knew that cannabis had medical benefits, as well as medical references that were too outdated to be used as a basis for consideration and the lack of in-depth research on cannabis. After the ratification of the Second International Opium Convention, the UN Commission on Narcotic Drugs issued a medical opinion report from representatives of the Mexican government, which concluded that marijuana does not pose a real danger and has little influence on criminal behavior. India also stated that the effects of use depend on psychological and genetic predisposition, meaning that there has been no official research from the UN to date, even though several countries have begun to legalize cannabis for medical purposes.

The regulations governing the management of narcotics use and the procurement of narcotics for medical purposes are the Narcotics Law, which regulates the classification of narcotics and controls their use and abuse, while ensuring the availability of narcotics for scientific and technological development and medical/health care purposes, and Law No. 36 of 2009 on Health (hereinafter referred to as the Health Law) as a special regulation governing medical interests and the need to provide narcotic drugs for medical purposes, such as morphine used in anesthetics.

Law No. 8 of 1976 concerning the Ratification of the 1961 Single Convention on Narcotic Drugs and the 1972 Protocol amending it, and Law No. 7 of 1997 concerning the Ratification of the 1998 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (UN Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, 1998) is the realization of Indonesia's ratification as a member of the United Nations.

At that time, the world was threatened by the increase in the illicit trafficking of narcotics and psychotropic substances, which was inseparable from the activities of transnational criminal organizations operating in various countries within an international criminal network, which then led to the classification of narcotics into several categories to facilitate the regulation of sanctions for their misuse and also the regulation of their procurement for medical needs. It was at this time that the cannabis plant was included in the same category as opium, heroin, morphine, and cocaine.

Indonesia has ratified the 1961 Single Convention on Narcotic Drugs and its protocol with Law No. 8 of 1976 and the 1971 Convention on Psychotropic Substances with Law No. 8 of 1996, as well as enacting Law No. 9 of 1976 on Narcotics, which has now been replaced by the Narcotics Law that regulates narcotics abuse and its penalties and guarantees the availability of narcotics for medical/health care needs, which are then regulated more specifically in the Health Law with adjustments to procurement still referring to the Narcotics Law, followed by the issuance of Indonesian Minister of Health Regulation No. 3 of 2015 concerning the Distribution, Storage, Destruction, and Reporting of Narcotics, Psychotropic Substances, and Pharmaceutical Precursors, to control the use of narcotics and psychotropic substances in the pharmaceutical sector so that the public's right to medical welfare is also guaranteed.

Based on this explanation, it can be concluded that the Narcotics Law was created in response to the illegal distribution of narcotics and psychotropic substances, which is an international crime that endangers the entire global community. The illegal distribution that leads to high levels of narcotics abuse necessitates control by the government, which is why Indonesia ratified the 1988 UN Convention to regulate the distribution of narcotics and their abuse, along with strict sanctions. The Narcotics Law also regulates the medical use of narcotics, specifically narcotics in categories III and II, which have a low level of dependence risk and must be supervised by the Minister of Health and the Food and Drug Supervisory Agency.

Classification of Cannabis Plants as Class I Narcotics

The classification of cannabis plants in the Narcotics Law falls under Category I Narcotics, as explained in the Appendix to the Narcotics Law, one of which is the cannabis plant. Article 6 explains the classification and its use. This classification is based on the danger and function of its use, but the regulation does not explain in more detail the qualifications for a substance to be categorized into one of these three classes. Therefore, for now, the classification categories are still based on the ratification of the UN convention. This means that Indonesia has not yet conducted in-depth research on how a substance is considered dangerous, resulting in high dependence, while also having good medical benefits, of course with strict supervision, considering that this substance is a narcotic. Articles 7 and 8 of the Narcotics Law specifically discuss the use of narcotics for health services and scientific purposes, as well as special regulations for Class I Narcotics.

The explanation of Article 6 paragraph (1) letter a of the Narcotics Law related to Class I narcotics is that they can only be used for scientific research purposes and cannot be used in therapy, and have a high potential for causing dependence. This means that cannabis plants, as part of Class I Narcotics, are not permitted to be used for medical treatment and can only be used for research, while the legal explanation regarding the inclusion of cannabis plants in Class I Narcotics does not provide a fundamental explanation for the inclusion of cannabis plants in Class I Narcotics.

The regulation of narcotics use is also stipulated in Article 7 of the Narcotics Law, which explicitly prohibits the use of narcotics except for health services and scientific and technological development. While the regulation of Class I narcotics in Article 8 of the Narcotics Law explains that the use of Class I narcotics in healthcare is strictly prohibited. Even in the case of diagnostic reagents (), their use is only permitted for the development of science and technology in limited quantities, which will later be used as diagnostic reagents and laboratory reagents with the approval of the Minister upon the recommendation of the Head of the Food and Drug Supervisory Agency.

The regulations in these articles explain that Class I narcotics are dangerous and can only be used for specific purposes, such as detecting users and those who use them (diagnostic reagents and laboratory reagents) and for the advancement of science. There are no regulations regarding what to do if it is found that Category I narcotics can be used for medical purposes, as well as the realization that they can be used by comparing the medical benefits that can be obtained. Several countries that have conducted research on science and technology development recognize cannabis as a medicinal plant and are beginning to consider its management by legalizing it with special regulations to prevent and reduce abuse.

Cannabis itself is classified as a Class I Narcotic, which means its use is completely prohibited, especially in health services, because Class I Narcotics cause high dependence. However, Indonesia has not yet conducted official research on the medical benefits of cannabis and still adheres to the classification in the 1988 United Nations Convention on the Suppression of the Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Several countries that have conducted research on the medical benefits of cannabis have begun to openly support its use, albeit with strict supervision. A Gallup national survey in November 2005 found that 78% of Americans support the legalization of cannabis so that doctors can prescribe its use to reduce pain. In the same year, a scientific survey by HDC Research and Muhlenberg College Institute of Public Opinion found that 74% of doctors residing in the United States rejected law enforcement against anyone who used, grew, or obtained cannabis that had been prescribed by a doctor for pain relief.

There are many more recently published research findings supporting the use of marijuana in the medical field. So what about Indonesia? How long will it continue to turn a blind eye to medical needs in Indonesia, considering that many people need it, such as in Yogyakarta, where there are 5,000 people with cerebral palsy who have difficulty obtaining treatment and are in need of cannabis paste, but are hampered by the Narcotics Law, which prohibits the use of cannabis plants for medical purposes and requires a decision by the Minister with the recommendation of the Head of the National Agency of Drug and Food Control.

Apart from being a narcotic whose use is prohibited by law, the cannabis plant also has other benefits and functions that have been known since 14,000 years ago, one of which is the use of cannabis stem fibers as thread and woven fabric, which originated in China. The discovery that twisted strands of hemp fiber are much stronger than single strands triggered the development of technology and the art of spinning and weaving fibers into cloth, ending

humanity's dependence on animal skins for clothing. The cannabis plant itself still has other economic value in several fields such as agriculture, industry, and medicine.

3.3. The Concept of Regulatory Standards for the Use of Cannabis as a Health Service

The law is not a structure full of logical-rational order, but rather something that is malee (fluid) (Omar Sholahudin, 2017). The term malee in social malee and legal malee is defined as something that is fluid or not rigid, so it does not have a formal format and definite structure. In this context, law cannot be viewed as something rigid (formal-legalistic-positivistic) but must be flexible and fluid in considering the surrounding social reality and facts (sociological facts). The legal process takes place within a network or social system called society, meaning that law can only be understood by understanding the sociological conditions of society (Omar Sholahudin, 2017). Another objective of law is to achieve justice, which varies in content and measure, according to society and the times. Furthermore, in order to achieve order, legal certainty in human interactions in society is sought, because it is impossible for humans to optimally develop their God-given talents and abilities () without legal certainty and order.

The function of law in Indonesian society, which is currently developing, is not sufficient to guarantee certainty and order (Barda Nawawie Arief, 2002). From the perspective of the approach to the values of criminal law reform, it means an effort to reorient and reform criminal law in accordance with the central socio-political, socio-philosophical, and socio-cultural values of Indonesian society that underlie and give substance to the normative and substantive content of the desired criminal law. The national law that we want to create as the framework for the life of our nation must, of course, be based on the nation's worldview, Pancasila, and the provisions of the 1945 Constitution, but it must also be adapted to the demands of the times (Teuku Mohammad Radie, 1977).

Law must have a clear basis regarding the reasons for the need for legal reform. There are two things that make legal reform possible, namely: First, legal vagueness (*vague van normen*) (Asep Dedi Suwasta, 2012) which occurs because the laws and regulations are available but the wording or sentences are unclear, thus causing ambiguity in meaning.

Second, legal vacuum (*rechtsvacuum*) (C.S.T. Kansil, 1989) does not yet have a standard definition. In a narrow sense, a legal vacuum is defined as a state of emptiness or absence of laws and regulations that govern a written order in society so that in positive law it can be said to be a legal vacuum/absence of laws and regulations, because there is a possibility that a new law does not regulate all matters or events regulated by the old law. If an event is regulated in the old law but not in the new law, this is where transitional provisions come into play. Usually, the wording of a transitional provision is: "if there is no provision, then the old regulation applies" (Frisca Cristi, 2009).

The process of drafting legislation takes a long time, so that by the time the legislation comes into force, the matters it is intended to regulate have already changed. A legal vacuum can occur because certain matters or circumstances have not been regulated in legislation, or have been regulated but are unclear or incomplete. Legislation itself applies in a country at a certain time and is a formal system, so it is certainly rather difficult to change or revoke it even if it is no longer in line with the developments in the society that must be regulated by the legislation (Frisca Cristi, 2009).

The rapid development of society has led to the emergence of a turning point arising from the existence of a regulation. In reality, the laws or regulations that have been made do not cover all the issues that arise in society, making it difficult for law enforcement officials to resolve these issues (Jimly Asshiddiqie and M. Ali Safa'at, 2006).

The principle of legality, as a principle that provides legal certainty, is confronted by the reality that this principle cannot satisfy the public's sense of justice because society is developing in line with technological advances. Therefore, there are times when legislation is incomplete, resulting in a legal vacuum in society. There are two efforts that can be made to overcome legal vacuums, namely through legal discovery and the existence of policies from legislators (Satya Arianto, 2004).

The provisions of Article 10 of Law No. 48 of 2009 concerning Judicial Authority indicate to judges that if a legal regulation is unclear or does not regulate a matter, judges must act on their own initiative to resolve the case. In this case, judges must play a role in determining what constitutes the law, even if the legislation cannot assist them.

This action by judges is called legal discovery (Yudha Bhakti Ardhiwisastra, 2000). Furthermore, the provisions of this article give meaning to judges as the main organ in a court

and as the executors of judicial power who are considered to understand the law, to receive, examine, and adjudicate a case, thus making it mandatory for judges to discover the law by exploring unwritten law to decide a case based on the law as a wise and responsible person (Yudha Bhakti Ardhiwisastra, 2000).

The discovery of law is carried out under certain conditions. In this case, there are two opinions, namely the opinion of the adherents of the *seins-clair* doctrine, which states that the discovery of law by judges is only carried out when: 1) no regulations are found for a concrete case, and 2) the existing regulations are vague/unclear. The second opinion states that judges always and never fail to discover the law. In dealing with every case brought before them, judges always make legal discoveries by applying abstract laws to concrete events (Achmad Ali, 2002).

Legally and philosophically, judges have the obligation or right to discover the law so that their decisions are in accordance with the law and the sense of justice in society. Furthermore, if interpreted further, the provisions of Article 5 paragraph (1) of the Judicial Authority Law can be interpreted to mean that because judges are the formulators and explorers of legal values that exist in society, they are able to recognize, feel, and understand the legal sentiments and sense of justice that exist in society (Yudha Bhakti Ardhiwisastra, 2000). Thus, judges will be able to deliver decisions that are in accordance with the law and the sense of justice of society. Looking at court decisions, the function of the court is to apply the law, which gives rise to a specific norm that stipulates that a certain sanction must be imposed on a specific individual.

The existence of policies from lawmakers is a further effort to overcome legal vacuums (*rechtsvacuum*), because the position of judges as law enforcers is to seek and discover the law themselves from other legal sources such as jurisprudence, doctrine, treaties, customs, or unwritten law. However, judges do not hold legislative or executive power (as law-making bodies) like the House of Representatives and the Government (President). Judges are no longer considered the mouthpiece of the law. This new view is known as the material legal or autonomous concept, with Oliver Wendel Holmes and Paul Scholten as its leading figures. The judiciary must remain the mouthpiece of justice for the people by placing the supremacy of truth and justice at the forefront of judges' thinking. The National Legislation Program by the legislators, and the Government (President), is one of the mechanisms of the legislation program and also an effort to overcome legal vacuums by providing explanations, interpretations, or supplements to legislation (Pontang Moerad, 2005).

The government, as the policy maker, must optimize the application of the principle of justice so that in carrying out its governmental affairs, it can run in accordance with the principle of Good Government, one of which is the principle of the rule of law. The law has two main tasks, namely to achieve legal certainty and to achieve justice for all people (Satjipto Rahardjo and Ronny Hanintijo Soemitro, 1986). Justice is the first virtue of social institutions, as is truth in John Rawls' system of thought in his book *A Theory of Justice* (1971), which explains the theory of social justice as the difference principle and the principle of fair equality of opportunity.

Referring to the principle of justice explained by John Rawls, one of the principles of justice, namely the difference principle, can be used to analyze the regulation of norms regarding the classification of cannabis as a Class I Narcotic. The difference principle can be interpreted as a principle that focuses on the less fortunate due to socioeconomic differences so that they can enjoy the maximum benefits. The purpose of this principle in the application of the material written about the inclusion of cannabis plants in Class I Narcotics and its relevance in the medical field as a medicinal plant is to provide maximum benefits to those who are socioeconomically disadvantaged. The inclusion of cannabis in Category I narcotics, compared to the inclusion of other narcotics in Category I, has a significant difference, namely the absence of an appropriate basis and complete information regarding the reasons for including cannabis in Category I narcotics, as discussed in the previous sub-material. because Indonesia is a country that follows the results of the convention, cannabis is prohibited in this country based on the laws established at that time and applied until now.

The principle of difference emphasizes that fairness here means maximizing benefits for members of the community with low socioeconomic status, given the socioeconomic inequalities that exist in society. The preamble to the 1945 Constitution guarantees the welfare of the people in paragraph 4, which states "...to promote general welfare, to educate the nation, and to participate in establishing world order" and is reaffirmed in Article 28C of the 1945 Constitution that every person has the right to develop themselves through the fulfillment of their basic needs, the right to education and to benefit from science and

technology, art, and culture, in order to improve their quality of life and for the welfare of humanity. This means that welfare itself is the foundation of the Indonesian state and is fair in proportion to the existing socio-economic conditions, especially the right of every community to receive medical care.

The second principle of Pancasila, Just and Civilized Humanity, guarantees all citizens justice and protection of their human dignity. The law itself is made with the main task of achieving legal certainty and justice for all people. With the development of science, Indonesia must provide space for research so that new legal facts can be created in accordance with social justice, which is the goal of law, so that justice based on the principle of difference with an emphasis on social justice can occur and lead to the benefits of law and legal certainty that can be felt by a number of communities.

The provision of justice for cannabis plants needs to be viewed as a medicinal plant that can help people with low socioeconomic status and provide maximum benefits to the state through its management. There needs to be a legal reform so that cannabis plants can be used for medical purposes and can provide equal opportunities for people with low socioeconomic status, namely by removing cannabis plants from the Category I Narcotics category to become medicinal plants in the Category II Narcotics category, with their use subject to the provisions of the relevant medical parties and strict supervision.

The primary objective of the Narcotics Law is to protect the health of the Indonesian people. However, the Narcotics Law is not based on scientific knowledge and logic.

The Narcotics Law explains that narcotics can still cause confusion regarding the classification of substances included in it because alcohol or alcoholic beverages can also cause depression, changes in consciousness, loss of pain, and addiction, as in the case of nutmeg, cat's whiskers, and morning glory/horse hoof, and some alcoholic beverages are also obtained through the fermentation of plants.

The decision to include cannabis in Class I Narcotics along with cocaine and various opium derivatives, such as heroin and morphine, shows that the government still lacks knowledge and concern for conducting research on cannabis as a medicinal plant. In 1999, a report from the Institute of Medicine (IOM) in the United States on the medical use of cannabis stated that there is no conclusive evidence that the effects of cannabis are causally related to the abuse of other illegal drugs.

Legal reforms are focused on Category I narcotics, given that the inclusion of cannabis in Category I narcotics has no clear reference, except that the Narcotics Law states that Category I narcotics have a very high potential for causing dependence. Cannabis as a medicinal plant needs to be re-examined in terms of legislation so that it can be used as much as possible as a means of treatment as stipulated in the Narcotics Law. The national laws that we intend to create as the framework for the life of our nation must, of course, be based on the nation's worldview, Pancasila, and the provisions of the 1945 Constitution, but they must also be adapted to the demands of the times. Legal reform, especially of the Narcotics Law regarding the relevance of cannabis as a medicinal plant, is very important in order to achieve criminal law that can overcome social problems and provide fair protection to the community. This legal reform is intended to meet the medical needs of the community and provide equal opportunities for all. Looking at several countries that have reformed their regulations on cannabis as a medical commodity, those with good socioeconomic status may choose to seek treatment there, while those with low socioeconomic status will choose to remain silent and provide treatment as best they can.

Based on Article 7 of the Narcotics Law, narcotics can only be used for health services and/or the development of science and technology. The explanation of Article 7 of the Narcotics Law states that health services () include medical rehabilitation services, while the development of science and technology refers to the use of narcotics primarily for the purposes of treatment and rehabilitation, including for the purposes of education, training, research and development, and skills training carried out by government agencies whose duties and functions include the supervision, investigation, and eradication of illegal narcotics distribution. Educational, training, and skill development purposes include the training of narcotics detection dogs by the Indonesian National Police, Customs and Excise, the National Narcotics Agency, and other agencies.

Based on the provisions of Article 7 of the Narcotics Law, there is an exception, namely Article 8 paragraph (1) of the Narcotics Law, which states that Class I Narcotics are prohibited from being used for health care purposes. However, paragraph (2) explains that Class I narcotics may be used in limited quantities for the purposes of scientific and technological development and for diagnostic reagents and laboratory reagents after obtaining the approval

of the Minister on the recommendation of the Head of the Food and Drug Supervisory Agency.

Article 11 of the Narcotics Law states that the Minister grants special permission to produce narcotics to certain pharmaceutical industries that already have permits in accordance with the provisions of laws and regulations after an audit by the Food and Drug Supervisory Agency. However, based on Article 12 paragraph (1) of the Narcotics Law, Class I Narcotics are prohibited from being produced and/or used in the production process, except in very limited quantities for the purposes of scientific and technological development.

This means that the use of Class I narcotics is limited to certain matters regulated in the Narcotics Law and requires permission from the Minister. One of these matters is for the purposes of scientific and technological development, including for medical treatment and rehabilitation. This means that for scientific purposes in medical treatment, cannabis plants may be used, but only with prior permission from the Minister.

Article 13 of the Narcotics Law also explains that scientific institutions in the form of educational and training institutions as well as research and development institutions organized by the government or the private sector can also obtain, plant, store, and use narcotics for scientific and technological purposes after obtaining permission from the Minister.

The regulations in these articles explain that Class I narcotics are dangerous narcotics and can only be used for specific purposes, such as detecting users and those who use them (diagnostic reagents and laboratory reagents) and for scientific development. There are no regulations regarding what to do if Category I narcotics are found to have medical uses, or how to realize these uses by comparing their medical benefits. Several countries that have conducted scientific and technological development research recognize cannabis as a medicinal plant and are considering its management through legalization with special regulations to prevent and reduce abuse.

The legal reform here is intended for Indonesia to view the technological and informational developments regarding cannabis as a medicinal plant, which can be maximally utilized in the medical field, but with stricter supervision considering that cannabis is classified as a narcotic. Article 8 of the Narcotics Law clearly prohibits the use of cannabis for medical purposes because cannabis is classified as a Class I Narcotic. The rationale behind the enactment of the Narcotics Law, as explained in its preamble, is to realize a prosperous, just, and equitable society based on Pancasila and the 1945 Constitution, as well as to improve the health of human resources in order to achieve the welfare of the people, efforts need to be made to improve the field of medicine and health services, namely by ensuring the availability of certain types of narcotics that are urgently needed as medicines and by preventing and eradicating the dangers of narcotics and narcotics precursor abuse and illicit trafficking.

Legal reform in the Narcotics Law must take into account the significant medical benefits of the cannabis plant and must also refer to the 1945 Constitution as a reference in drafting legislation as the basis for the principle of " " (the people's welfare) in all types of legislation. This refers to Article 33 of the 1945 Constitution regarding the management of natural resources, as the cannabis plant is considered a natural resource asset owned by Indonesia. Article 33 paragraph 3 of the 1945 Constitution explains the management of natural resources controlled by the state and used for the prosperity of the people. Article 33 paragraph 3 explains that the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. Cannabis plants, as medicinal plants, are entitled to be managed by the state and used for the prosperity of the people. When viewed from the constitution in force in Indonesia, which emphasizes justice and community welfare, this should be taken into consideration when conducting research on the benefits of cannabis plants in the medical field.

Viewing cannabis as a medicinal plant means that it is also considered a natural resource. If there are still questions about how cannabis can be included in the category of natural resources, the definition of natural resources itself is contained in Law No. 5 of 1990 concerning the Conservation of Living Natural Resources and Their Ecosystems. Article 1 of the Natural Resources Law explains that biological elements in nature consist of plant resources (plants) and animal resources (animals) together with non-biological elements. This definition does not limit what is referred to as natural resources, meaning that cannabis plants can be considered natural resources. Considering their benefits as medicinal plants, they should be recognized and protected. By focusing on them as medicinal plants, it is hoped that abuse can be reduced due to the supervision of users by the relevant authorities.

Cannabis plants as natural resources and medical commodities are also guaranteed by the constitution, which guarantees the people and everything on earth with the aim of justice and welfare for the community. Referring to Article 3 of the 1945 Constitution regarding the management of natural resources, the current focus is on cannabis plants as medicinal plants, of course with supervision and control from relevant parties, namely the Ministry of Health, state-owned enterprises, and the Indonesian Food and Drug Administration by granting them the authority to produce and distribute cannabis plants for medical purposes, starting on a small scale as is currently being done by the Ministry of Health's Research and Development Center for Medicinal Plants and Traditional Medicine in Tawang Mangu, Central Java, which produces cannabis paste for the treatment of cerebral palsy or nerve paralysis that is not hereditary.

The above explanation can be summarized as follows: there is legal ambiguity in the Narcotics Law because, according to the author's analysis, the regulation essentially exists and cannot be said to be void. It is considered ambiguous because interpretations have led to uncertainty regarding the certainty of the law. The difference in interpretation referred to is regarding the regulation of cannabis as a Class I Narcotic for medical purposes, because the law regulates Class I Narcotics as a whole. Class I narcotics are permitted to be used for health services but must have special permission from the Minister and the Food and Drug Supervisory Agency, and can be produced in limited quantities for the purposes of scientific and technological development. The amount that can be used and the permission from the minister and BPOM determine how long it takes to obtain permission and whether it can be used for scientific and technological development.

The development of science and technology certainly includes interests in treatment and rehabilitation. Once a permit has been obtained from the minister, how will it be used and for which types can it be used? There are many types of Class I narcotics, and the amounts needed will certainly vary greatly, considering the effects of using Class I narcotics.

Therefore, legal reform is focused on the category of Class I narcotics, considering that the inclusion of cannabis in Class I narcotics does not have a clear reference, except that the Narcotics Law states that Class I narcotics have a very high potential for causing dependence. As a medicinal plant, cannabis needs to be re-examined in terms of legislation so that it can be used as much as possible as a means of treatment as stipulated in the Narcotics Law.

Guaranteeing cannabis as a medicinal plant also requires control over the use of cannabis for medical purposes and its misuse so that supervision by the relevant parties can maximize the benefits of cannabis as a medicinal plant and minimize its misuse in society. , as the regulator, needs to establish specific regulations regarding cannabis plants in order to facilitate control over their use and abuse. This means that if there are specific regulations governing cannabis plants as medicinal plants, then the sanctions imposed will also be specific to the abuse of cannabis plants, thus differing from the sanctions for the abuse of Class I narcotics. The difference here is due to the specificity of cannabis as a medical commodity, and it is hoped that the sanctions for its misuse will be adjusted in line with more in-depth research by the Ministry of Health if it is related to medical use, but if it is misused for non-medical purposes or for euphoria, strict sanctions will be imposed.

Based on the analysis conducted, the concept proposed by the author is a review of the medical benefits of cannabis, followed by its classification with a view to medical importance, requiring a downgrading of its classification and special regulations on its management and use to facilitate its application and identify any abuse that occurs. This re-evaluation refers to scientific research conducted to determine the benefits of cannabis and the amount of use for medical applications so that a decision can be made that cannabis can be used in health/medical services.

The review will result in a Ministerial Regulation that specifically regulates cannabis plants in order to remove them from Class I Narcotics, which are prohibited from use, especially in health services, and in limited quantities can only be used for the advancement of science and technology and as diagnostic reagents and laboratory reagents. The basis for the formation of the Ministerial Regulation is, of course, based on a review of the function of cannabis plants in the medical field. Legally, Article 6 paragraph (3) of the Narcotics Law states that provisions regarding changes in the classification of narcotics as referred to in paragraph (2) are regulated by a Ministerial Regulation.

4. Conclusion

The classification of cannabis as a Class I Narcotic is rooted in an international commitment through the 1961 Single Convention on Narcotic Drugs, which was later ratified by Indonesia and accommodated in Law No. 35 of 2009 on Narcotics, placing cannabis in the category of substances under the strictest supervision because it is considered to have a high potential for abuse. Legally, the law prohibits the use of cannabis for health services and limits it to research only, even though non-legally there is recognition of its medical benefits in various countries. Therefore, legal reform is needed through the establishment of a Ministerial Regulation as mandated by Article 6 paragraph (3) of the Narcotics Law as a first step to open up limited and controlled use of cannabis in healthcare, while also serving as a basis for the establishment of more comprehensive regulations in the future.

References

- Abdulkadir, M. (2004). *Law and legal research* (1st ed.). PT Citra AdityaBakti.
- Aloysius, W. (1999). *Criminal law policy in combating computer abuse*. Atmajaya University.
- Arief, B. N. (2008). *Anthology of criminal law policy: Development of the new criminal code concept*. Kencana Prenada Media Group.
- Arief, H. M. (2007). *Drugs: Dangers and countermeasures*. Jember.
- Asep, D. S. (2012). *Interpretation of Indonesian positive law*. Alia Publishing.
- Asshiddiqie, J., & Safa'at, M. A. (2006). *Hans Kelsen's theory of law*. Sekretariat General & Registrar, Constitutional Court of the Republic of Indonesia.
- Atmajaya, D. G. (2013). *Philosophy of law*. Setara Press.
- Harrison, D. (2002). *Drugs: A serious threat to the younger generation*. National Narcotics Agency.
- Hawari, D. (1991). *Drug abuse and addictive substances*. Faculty of Medicine, University of Indonesia.
- Hiariej, E. O. S. (2009). *The principle of legality and legal discovery in criminal law*. Erlangga.
- Kansil, C. S. T. (1989). *Introduction to legal science and Indonesian legal system*. Balai Pustaka.
- Lingkar Ganja Nusantara. (2020). *The story of the cannabis plant*. Lingkar Ganja Nusantara Association.
- Mertokusumo, S. (2003). *Understanding law: An introduction*. Liberty.
- Muladi. (1995). *Selected topics in criminal law*. Diponegoro University Press.
- Mulyadi, L. (2008). *Anthology of criminal law: Perspectives, theory, and practice*. PT Alumni.
- Rasyidi, L. (2001). *Fundamentals of philosophy and legal theory*. Citra Aditya Bhakti.
- Sapardjaja, K. E. (2002). *The doctrine of material unlawfulness in Indonesian criminal law: A case study of its application and development in jurisprudence*. Penerbit Alumni.
- Soekanto, S. (1981). *Criminology: An introduction*. Ghalia Indonesia.
- Soekanto, S., & Mamuji, S. (1995). *Normative legal research: A brief overview*. Raja Grafindo Persada.
- Yansay, D. (2001). *Prevention and handling of drugs*. Elex Media Komparindo.