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COMPARATIVE ANALYSIS OF NARCOTICS REGULATIONS INTENDED FOR HEALTHCARE SERVICES IN INDONESIA AND THAILAND

Roiyah Ulfa Siregar
Faculty of Law, Universitas Muhammadiyah Sumatera Barat
E-mail: roiyahulfasrg@gmail.com

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Abstract

Narcotics possess a dual nature: they are beneficial for healthcare services yet carry a high risk of dependency if misused. Under Law Number 35 of 2009 concerning Narcotics, marijuana is classified as a Schedule I narcotic in Indonesia, meaning it cannot be used for medical purposes. In contrast, Thailand's Narcotics Code B.E. 2564 (2021) mandates a strict licensing and oversight system for the use of medical marijuana. This regulatory rigidity in Indonesia has led to several humanitarian tragedies, as exemplified by the cases of Fidelis Arie Sudewarto and Pika Sasikirana. This study examines narcotics regulations in Indonesia and Thailand regarding their use in healthcare. It employs statutory, case-based, and comparative approaches. The findings reveal that while both nations prioritize narcotics eradication within their national criminal justice systems and utilize narcotics classification frameworks, they differ sharply in their legal stance on medical marijuana. Thailand demonstrates that the legalization of medical marijuana is feasible without compromising state oversight efforts. The study recommends an evaluation of Article 6, paragraph (1) of the 2009 Narcotics Law as a step toward evidence-based criminal law reform.

Keywords: *Narcotics, Healthcare Services, Comparative Law.*

INTRODUCTION

The use of illicit drugs is clearly very dangerous and commonly leads to addiction. In the medical field, certain medications contain narcotic substances because they are prescribed by physicians to help patients with mental disorders, anxiety disorders, pain, fear, and low self-confidence, depending on the type of medication administered. Therefore, many narcotic drugs continue to have important therapeutic value when used appropriately for medical treatment; however, their misuse can have serious and harmful consequences. Fundamentally, narcotics play an important role in the healthcare sector as they are used in medical procedures and therapeutic interventions for patients based on specific clinical indications. However, these benefits are often undermined by misuse that violates applicable legal regulations and established medical standards of care. This situation becomes even more serious when combined with the illegal trafficking of narcotics, as both can have significant adverse effects on society as a whole as well as on individuals. These impacts are particularly alarming for the younger generation, considering that narcotics abuse has the potential to undermine the quality of human resources and threaten the nation's social and cultural values (Multazam, 2018).

In fact, narcotics have numerous medical benefits; however, their misuse is prohibited by law. Nevertheless, the use of narcotics without proper supervision and strict control may lead to severe dependence and addiction. The right to obtain healthcare is one of the fundamental human rights constitutionally guaranteed in Indonesia, as stipulated in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. To implement this constitutional mandate, the Government has reformed its health law policy through the enactment of Law Number 17 of 2023 concerning Health. Progressively, Article 276 of the 2023 Health Law provides legal recognition and opportunities for the application of new healthcare services or treatment methods in the interest of patient safety. This legal framework indicates that Indonesia's health law fundamentally requires flexibility and adaptation to advances in medical science, in which the fulfillment of patients' right to recovery must be prioritized by the State.

In principle, Indonesia's positive law does not entirely disregard the therapeutic benefits of narcotic preparations for medical treatment. The State maintains a highly regulated pharmaceutical system governing the use of Schedule II and Schedule III narcotics, such as morphine and codeine. Under Law Number 35 of 2009 concerning Narcotics, these classifications still permit access to healthcare services for legitimate medical purposes. However, the ideal expectation of a progressive right to healthcare encounters a significant legal barrier when it comes to Schedule I narcotics. Article 8 paragraph (1) of the Narcotics Law clearly reflects this normative shift by prohibiting the use of Schedule I narcotics for healthcare purposes. Consequently, cannabis, despite its scientifically recognized

medicinal properties, remains entirely prohibited under Indonesian law. However, the ideal expectation of a progressive right to healthcare is significantly constrained by the rigidity of Indonesia's positive criminal law governing narcotics. Under the provisions of Law Number 35 of 2009 concerning Narcotics, the legal framework imposes highly restrictive limitations on the exploration of medical applications involving narcotic substances. This rigid normative conflict is most evident in Article 8 paragraph (1) of the Narcotics Law, which stipulates that Schedule I narcotics may not be used for healthcare purposes. This absolute prohibition directly applies to cannabis, which is legally classified as a Schedule I narcotic. Consequently, a rigid normative contradiction arises between the constitutionally guaranteed right to health and the prohibitions imposed by criminal law, effectively preventing medical professionals from exploring scientifically proven therapeutic treatments for the benefit of patient safety.

In practice, the normative inconsistency between health law and criminal law has given rise to various humanitarian tragedies and issues of substantive justice within society. Moreover, the use of medical narcotics in Indonesia continues to be strongly associated with social stigma resulting from narcotics abuse, making it essential for the State to ensure that existing legal policies do not exacerbate discrimination against individuals who require such therapeutic treatment. A clear manifestation of the rigidity of Indonesia's criminal law can be seen in the 2017 case of Fidelis Arie Sudewarto, who was compelled to cultivate cannabis plants in order to extract them as an alternative medicine for his wife, who suffered from the rare disease Syringomyelia, after expensive conventional medical treatment failed to produce satisfactory results. This empirical case clearly demonstrates that strict formal legal certainty continues to influence law enforcement authorities and judicial institutions in Indonesia. This is because the provisions of Law Number 35 of 2009 concerning Narcotics do not recognize humanitarian grounds (noodtoestand) as a justification for the use of narcotics for medical treatment purposes.

The rigidity of Indonesia's criminal law policy on narcotics has not only resulted in the criminalization of independent caregivers but has also obstructed the right to life of children suffering from chronic illnesses. The humanitarian urgency of this issue is reflected in the constitutional struggle of Santi Warastuti on behalf of her daughter, Pika Sasikirana, who suffered from Cerebral Palsy and required medical cannabis therapy to reduce the frequency and severity of her seizures. In pursuit of this objective, a constitutional review of Law Number 35 of 2009 concerning Narcotics was submitted to the Constitutional Court. However, as stated in Constitutional Court Decision Number 106/PUU-XVIII/2020, the petition was rejected. The Court held that, as a matter of open legal policy, any decision regarding the legalization of such substances could only be made following comprehensive scientific research. Ironically, the stagnation of legal policy and the delay in follow-up research by government institutions after the Court's decision culminated in another humanitarian tragedy, as Pika Sasikirana passed away on March 18, 2025, without ever obtaining her right to adequate access to medical treatment. This empirical condition underscores the urgent need for penal reform of Indonesia's narcotics policy in order to protect the lives of citizens whose access to potentially life-saving treatment remains constrained by existing regulatory limitations.

The most significant difference between the legal systems of Indonesia and Thailand lies in their respective approaches to the classification of prohibited substances for medical therapeutic purposes. While Thailand has gradually relaxed its regulations concerning certain natural substances that were previously prohibited, Indonesia, under Law Number 35 of 2009 concerning Narcotics, continues to classify all Schedule I narcotics as prohibited for healthcare purposes. The law permits the use of these substances solely for scientific research and the advancement of knowledge, while strictly prohibiting their use for medical treatment. In contrast, Thailand has adopted a more progressive approach by allowing the use of cannabis for medical purposes. In 2013, Thailand initially embraced a narcotics control policy modeled on the War on Drugs strategy inspired by the United States before subsequently shifting toward a different policy direction. Although the Thai Government adopted a repressive approach toward drug trafficking and smuggling at that time, the rate of drug abuse continued to increase annually, resulting in a higher risk of drug-related deaths. The implementation of the War on Drugs policy was widely regarded as ineffective in achieving its intended objectives and instead generated various adverse consequences, including reduced public welfare, declining security and public order, and impediments to national development. These challenges were further compounded by Thailand's geographical location within the Golden Triangle, a region that has long been recognized as one of the world's principal transnational narcotics trafficking routes.

Following the failure of this repressive approach, the Royal Thai Government ultimately undertook a fundamental reorientation of its criminal law policy by removing medical cannabis from the list of prohibited narcotics in the interest of public welfare. This shift in Thailand's legal paradigm offers an important lesson for Indonesia, which remains confronted with the dilemma of rigid criminal law enforcement and the stagnation of medical research. Through a comparative law approach, Indonesia can examine how Thailand has formulated its regulatory framework and implemented a stringent supervisory system, thereby allowing the medical use of cannabis

while safeguarding national security against the risks of narcotics abuse. This comparative study is both timely and essential as a foundation for penal reform grounded in humanitarian values and the protection of citizens' right to health. Therefore, in order to comprehensively examine the regulatory limitations, the implications for law enforcement, and the future formulation of legal policy, this legal research is entitled: "A Comparative Analysis of the Regulation of Narcotics for Medical Purposes in Indonesia and Thailand."

Based on the foregoing explanation, the research questions of this study are as follows:

1. How are narcotics regulated for healthcare purposes in Indonesia?
2. How are narcotics regulated for healthcare purposes in Thailand?
3. What is the comparative analysis of the regulation of narcotics for healthcare purposes in Indonesia and Thailand?

RESEARCH METHOD

This study employs three research approaches: the statutory approach, the case approach, and the comparative law approach. The legal materials consist of secondary legal sources derived from primary legal instruments, including the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2023 concerning Health, Law Number 35 of 2009 concerning Narcotics, decisions of the Constitutional Court, and the legal provisions governing medical narcotics in the Kingdom of Thailand. All legal data were collected through library research by reviewing relevant literature and legal documents. Subsequently, the legal materials were classified according to their respective subject matters and analyzed qualitatively using a deductive method of reasoning. These approaches were employed to examine the differences in regulatory policy formulation and supervisory systems governing the use of narcotics for healthcare purposes in Indonesia and Thailand. It is expected that the findings of this descriptive-analytical study will provide comprehensive recommendations for penal reform in Indonesia. Accordingly, this methodological framework is specifically designed to address all research questions concerning the comparative synchronization of legal norms governing medical narcotics in the two countries.

DISCUSSION

1. Regulation of Narcotics for Medical Purposes in Indonesia

The complex nature of narcotics makes their regulation particularly challenging. Although narcotics may be used for medical purposes, they also pose a high risk of dependence when misused. In the field of medicine, certain types of narcotics are utilized as anesthetics, pain relievers for patients suffering from chronic illnesses, and as part of specific medical therapies. Their use in healthcare is subject to strict supervision by medical professionals to prevent harmful adverse effects. However, when consumed freely without proper control, narcotics can cause serious disorders of the central nervous system, leading to physical and psychological dependence that is difficult to overcome. Therefore, a comprehensive understanding of narcotics is essential from medical, legal, and social perspectives. In pharmaceutical terminology, the term "narcotic" refers to a drug, namely a type of substance that can affect the body of the person who uses it, particularly when administered into the body.

Historically, narcotics were used on a limited basis for medical purposes and cultural rituals across various civilizations. Opium, for example, has been known for thousands of years in Mesopotamia and China as a substance used for pain relief. However, a significant transformation occurred when these substances began to be produced manually, chemically modified, and traded on a large scale for economic and political interests. The Opium Wars of the nineteenth century serve as a clear example of how narcotics were exploited as instruments of economic domination and colonialism, the consequences of which continue to influence global policies on the control of illicit drugs to this day.

Indonesia has become a lucrative market for international drug syndicates due to the increasing number of drug users. Rapid economic growth has further encouraged drug traffickers to view Indonesia as a promising market. With the largest population in Southeast Asia, accounting for approximately half of the ASEAN population, or more than 500 million people, combined with a rising rate of drug abuse, Indonesia has become an attractive destination for international narcotics syndicates. In addition, the limited number of law enforcement personnel in the field has made drug smuggling easier for these international criminal networks.

As a democratic state governed by the rule of law, Indonesia upholds both popular sovereignty and the supremacy of law. The law governs the conduct of all citizens and state officials equally, without discrimination based on social status, thereby ensuring that justice and the rule of law are upheld simultaneously in accordance with the principle of equality before the law. Law Number 35 of 2009 concerning Narcotics classifies narcotic substances into three categories based on their potential effects and their medical utility. The purpose of this classification is to

regulate and restrict the use of narcotics for medical treatment and scientific research while strengthening legal enforcement against the abuse of narcotic substances.

a. Schedule I Narcotics are considered the most dangerous because they have the highest potential to cause dependence. They are generally not used for medical treatment and may only be utilized in limited quantities for scientific research. Examples of Schedule I narcotics include heroin, cocaine, cannabis, and ecstasy (MDMA). The possession, production, or distribution of Schedule I narcotics is subject to the most severe criminal sanctions, including the death penalty, due to their extremely high level of risk (Articles 111–116 of the Narcotics Law). These Schedule I substances are involved in the majority of narcotics-related cases in Indonesia.
b. Schedule II Narcotics are substances that have recognized medical benefits and are generally used as a last-line treatment. However, they also carry a high potential for dependence. Morphine and pethidine are examples of Schedule II narcotics. Although these substances have legitimate medical uses, their distribution and use are subject to strict supervision, and their misuse carries severe criminal penalties, albeit less severe than those applicable to Schedule I narcotics.
c. Schedule III Narcotics are substances commonly used in medical treatment and possess recognized therapeutic benefits, while presenting only a relatively low potential for dependence. Codeine is an example of a Schedule III narcotic. Among the three categories, the criminal sanctions imposed for the misuse of Schedule III narcotics are the least severe.

According to Article 4 of Law Number 35 of 2009 concerning Narcotics, one of the primary objectives of the law is to ensure the availability of narcotics for healthcare services and/or the advancement of science and technology. Under this provision, narcotics are regarded not merely as prohibited substances but also as pharmaceutical products that may provide therapeutic benefits when used in accordance with the applicable laws and regulations. Accordingly, Indonesia's narcotics policy seeks to strike a balance between preventing the abuse and illicit distribution of narcotics and facilitating their legitimate medical use. To achieve this objective, Law Number 35 of 2009 permits the use of Schedule II and Schedule III narcotics in healthcare services based on recognized medical indications. Nevertheless, the distribution of narcotics in pharmaceutical form may not be conducted freely; rather, it must comply with statutory requirements and obtain the necessary marketing authorization, as stipulated in Article 36 of Law Number 35 of 2009, which provides that:

a. Finished pharmaceutical narcotic products may only be distributed after obtaining marketing authorization from the Minister.
b. Further requirements and procedures governing the licensing of the distribution of finished pharmaceutical narcotic products, as referred to in paragraph (1), shall be regulated by a Ministerial Regulation.
c. The pharmaceutical products referred to in paragraph (1) must be registered with the Food and Drug Supervisory Agency before marketing authorization may be granted by the Minister.
d. Further requirements and procedures concerning the registration of finished pharmaceutical narcotic products, as referred to in paragraph (3), shall be regulated by a Regulation of the Head of the Food and Drug Supervisory Agency.

For the purpose of healthcare services, the State imposes strict supervision over the distribution of narcotics, as reflected in the provisions of Article 36 of Law Number 35 of 2009 concerning Narcotics. Narcotic pharmaceutical products may only be marketed after obtaining authorization from the Minister and being registered with the Food and Drug Supervisory Agency (BPOM), thereby ensuring that they satisfy the prescribed standards of safety, quality, and efficacy. Through this regulatory mechanism, the Government seeks to prevent the circulation of narcotic products that fail to meet the required standards while minimizing the potential for abuse through illicit distribution channels.

Furthermore, Article 43 of Law Number 35 of 2009 concerning Narcotics governs the distribution of narcotics. The provision stipulates that only authorized healthcare facilities and licensed healthcare professionals, including hospitals, pharmacies, community health centers (Puskesmas), medical clinics, and physicians, are permitted to provide narcotics. In general, patients may obtain narcotics only upon presentation of a physician's prescription, while physicians are authorized to dispense narcotics directly only under specific circumstances prescribed by law. These restrictions reflect the application of the precautionary principle to ensure that narcotics are used exclusively for legitimate medical purposes under the supervision of authorized healthcare professionals, thereby minimizing the risk of misuse.

Law Number 35 of 2009 concerning Narcotics not only regulates the distribution and dispensing of narcotics but also requires that every narcotic product manufactured and distributed bear an appropriate label. The purpose of

this labeling requirement is to provide information regarding the identity, composition, and intended use of the narcotic, thereby ensuring its safety, proper use, and facilitating supervision by the Government and healthcare professionals. The labeling obligation is specifically stipulated in Article 45 of Law Number 35 of 2009 concerning Narcotics, which provides as follows:

a. The labels for pharmaceutical products, including both finished pharmaceutical products and raw materials, shall be prepared by the pharmaceutical industry.
b. The label affixed to the pharmaceutical packaging referred to in paragraph (1) may consist of text, images, a combination of text and images, or any other form attached to, inserted into, or included as part of the pharmaceutical container or packaging.
c. The information provided on the pharmaceutical label must be complete, accurate, and not misleading.

One of the measures implemented to protect the public, healthcare professionals, and the Government from the misuse of narcotics is the mandatory labeling of narcotic products. Labels containing complete, accurate, and non-misleading information provide certainty regarding the identity, composition, and instructions for the proper use of narcotics, thereby reducing the risk of medication errors. Furthermore, labeling serves as an important instrument within the Government's regulatory oversight system for narcotics distribution, as it facilitates the identification, monitoring, distribution, and traceability of narcotic products in the event of misuse or violations of the applicable laws and regulations.

Article 127 of Law Number 35 of 2009 concerning Narcotics stipulates criminal sanctions for individuals who abuse narcotics for personal use, with the penalties varying according to the classification of the narcotic involved. The maximum penalty for the misuse of Schedule I narcotics is four years' imprisonment, while the maximum penalties for Schedule II and Schedule III narcotics are two years and one year of imprisonment, respectively. However, these provisions are not solely punitive in nature. Pursuant to Article 127 paragraphs (2) and (3), judges are required to take into consideration Articles 54, 55, and 103, which govern the rehabilitation of narcotics addicts and victims of narcotics abuse. Furthermore, Article 127 paragraph (4) provides that victims of narcotics abuse must undergo both medical rehabilitation and social rehabilitation. These provisions demonstrate that the policy embodied in Law Number 35 of 2009 seeks not only to enforce the law through criminal sanctions but also to promote recovery by recognizing narcotics abusers, particularly those suffering from dependence, as individuals in need of rehabilitation. Accordingly, the law aims to maintain a balance between criminal law enforcement and the protection and rehabilitation of victims of narcotics abuse.

2. Regulation of Narcotics for Healthcare Purposes in Thailand

Thailand is one of the Southeast Asian countries that has undertaken comprehensive reform of its narcotics legislation through the enactment of the *Narcotics Code B.E. 2564 (2021)*. This codification consolidates various narcotics laws that were previously dispersed across several separate statutes into a single comprehensive legal framework. The adoption of the Narcotics Code was intended to modernize Thailand's narcotics legal system, enhance its effectiveness, align it with evolving national circumstances, and harmonize domestic regulations with the international conventions ratified by Thailand. This reform serves as the legal foundation for Thailand's narcotics control policy, including regulations governing the use of narcotics for healthcare purposes.

The enactment of the *Narcotics Code B.E. 2564* was not merely aimed at simplifying the legal framework governing narcotics but also represented a significant shift in Thailand's narcotics control policy. Pursuant to the *National Policy and Plan for Drug Prevention, Suppression, and Problem-Solving 2023–2027*, the Thai Government has adopted a **public health-led strategy**, which places public health at the center of efforts to address narcotics-related issues. This approach is implemented through preventive measures, medical treatment, rehabilitation, respect for human rights, and the decriminalization of narcotics users, while continuing to enforce strict measures against illicit drug trafficking networks.

Section 29 of the Narcotics Code B.E. 2564 (2021) provides that narcotics in Thailand are classified into five categories based on their characteristics, level of danger, and intended use. Category 1 comprises narcotics considered to be highly dangerous, such as heroin. Category 2 includes narcotics that may be used for medical purposes, including morphine, cocaine, codeine, and medicinal opium. Category 3 consists of pharmaceutical preparations containing Category 2 narcotics in accordance with the criteria prescribed by the Minister of Public Health upon the recommendation of the Narcotics Control Committee. In addition, Category 4 covers chemicals used in the manufacture of Category 1 or Category 2 narcotics, whereas Category 5 includes narcotic substances that do not fall within Categories 1 to 4, such as the opium poppy. Furthermore, the designation, amendment, or removal of narcotic substances within each category is carried out by the Minister of Public Health with the approval of the

Narcotics Control Commission, thereby enabling Thailand's narcotics classification system to adapt to scientific developments and the evolving needs of narcotics control.

Following the classification of narcotics into five categories under Section 29, the Narcotics Code B.E. 2564 (2021) also regulates the use of narcotics for healthcare purposes. Pursuant to Section 35, certain narcotics may be used for government purposes, medical treatment or healthcare services (medical use), the treatment of patients, and educational and research purposes. However, such use is not permitted without restriction, as any activity involving the production, importation, exportation, sale, or possession of narcotics requires prior authorization from the competent authority in accordance with the provisions of the Narcotics Code. By maintaining a licensing system and comprehensive state supervision, this regulatory framework demonstrates that Thailand applies a strict control system while simultaneously allowing the use of narcotics for legitimate healthcare purposes.

The use of narcotics for healthcare purposes in Thailand is not only subject to a licensing requirement but is also governed by detailed regulations concerning licensing procedures and the obligations of license holders. Pursuant to Section 36 of the *Narcotics Code B.E. 2564 (2021)*, each importation or exportation of narcotics requires a separate license for every transaction. Applications for and the issuance of such licenses must comply with the procedures, requirements, and conditions prescribed by the Minister of Public Health through Ministerial Regulations. Furthermore, Section 37 provides that license holders engaged in the production, importation, exportation, distribution, possession, or transportation of narcotics are required to ensure the security of narcotic substances, maintain proper records, and submit operational reports to the competent authorities as part of the regulatory supervision and control of narcotics distribution.

The legal framework governing sanctions for narcotics users and addicts in Thailand has undergone significant reform following the enactment of the *Narcotics Code B.E. 2564 (2021)*. Unlike the previous approach, which primarily emphasized criminal punishment, the current legislation adopts a **public health approach** by prioritizing treatment and rehabilitation. Book 2, Title 1, Section 108 of the *Narcotics Code* provides that the management of narcotics addicts includes screening, assessment of the level of dependence, medical treatment, rehabilitation, harm reduction measures, and post-rehabilitation follow-up. In addition, social rehabilitation is provided through support in the areas of housing, education, employment, and social assistance to enable former addicts to reintegrate into society and resume productive lives. Accordingly, Thailand's current narcotics policy no longer focuses primarily on punishing drug users but instead regards them as individuals in need of treatment and rehabilitation, while maintaining severe criminal sanctions against those involved in the production, trafficking, smuggling, and illicit distribution of narcotics.

3. Comparative Analysis of the Regulation of Narcotics for Healthcare Purposes in Indonesia and Thailand

Common Ground as the Foundation for Legal Reform. A comparison of the narcotics criminal law policies of Indonesia and Thailand reveals several fundamental similarities that may serve as a basis for legal reform in Indonesia. Both countries regard narcotics control as a primary objective of their national criminal law policies and are committed to regional cooperation under the framework of the **ASEAN Drug-Free 2015** initiative. This shared commitment reflects a common normative foundation, making a comparative study of their legal systems highly relevant. Both Indonesia and Thailand adopt a classification system for narcotics based on categories or schedules, although the details of their classifications differ. In addition, both countries have enacted special legislation (*lex specialis*) outside the general provisions of criminal law to regulate and combat narcotics-related offences.

Despite these similarities, the two countries have adopted different legal policies regarding the use of narcotics, particularly cannabis, for medical purposes. Under **Law Number 35 of 2009 concerning Narcotics**, cannabis remains classified as a **Schedule I Narcotic**, meaning that it is prohibited for medical use. In contrast, the **Narcotics Code B.E. 2564 (2021)** of Thailand permits the use of cannabis for medical purposes while maintaining a rigorous licensing and regulatory oversight system. This divergence reflects fundamentally different legal policy choices concerning the balance between utilizing narcotics as a means of providing healthcare services and protecting society from the risks associated with narcotics abuse.

Pursuant to Article 6 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, only Schedule II and Schedule III narcotics are permitted for medical use. Consequently, the use of Schedule I narcotics, including cannabis, remains prohibited in Indonesia. From a philosophical perspective, the use of cannabis for medical purposes is closely associated with the protection and fulfillment of fundamental human rights, particularly the right to health. Numerous countries have enacted legislation permitting the medical use of cannabis under strict regulatory

supervision. Nevertheless, Law Number 35 of 2009 concerning Narcotics continues to prohibit the use of cannabis for medical purposes in Indonesia.

In contrast to Indonesia, the movement to legalize cannabis in Thailand began in 2016 but gained greater momentum in 2018 and 2019 when political parties adopted it as a key policy during the March 2019 general election. Medical cannabis was officially legalized in Thailand on 18 February 2019, making it the first country in Southeast Asia to do so. The *Narcotics Code B.E. 2564 (2021)*, which revised and consolidated the previous narcotics legislation, continues to regulate cannabis under the national narcotics classification while prohibiting its use for recreational purposes. Thai citizens may now obtain cannabis-based treatment for qualifying medical conditions. Furthermore, the importation and exportation of cannabis, as well as its research, cultivation, and processing, remain subject to strict regulatory control. Authorized persons, including physicians, dentists, pharmacists, veterinarians, traditional medicine practitioners, patients, government agencies, and research institutions, are permitted to possess, use, conduct research on, produce, and distribute cannabis in accordance with the applicable legal requirements.

Cannabis has considerable potential for therapeutic use in the healthcare sector, particularly as an alternative for pain management, thereby reducing dependence on opioid analgesics and other medications that may pose significant risks when administered in high doses. In many countries, medical cannabis is prescribed by physicians to assist in the treatment of various medical conditions, including depression, epilepsy, anxiety disorders, and nausea. Furthermore, advances in scientific research have led to the development of several cannabis-based pharmaceutical products that have been approved by drug regulatory authorities in a number of jurisdictions. One such example is **Epidiolex**, a medication containing cannabidiol (CBD), which has been approved by the **United States Food and Drug Administration (FDA)** for the treatment of certain types of epilepsy. Another example is **Nabiximols**, an oromucosal spray used to alleviate the symptoms of multiple sclerosis and neuropathic pain. This medication has been approved for clinical use in the United Kingdom and, since 2019, has also been marketed in several countries, including Japan, China, and a number of African countries (Bridgeman, M. B. et al., 2017, pp. 180–188).

Despite its potential therapeutic benefits in the healthcare sector, the medical use of cannabis remains prohibited in Indonesia. In Decision Number 106/PUU-XVIII/2020, the Constitutional Court rejected the petition seeking the legalization of medical cannabis on the grounds that it was not supported by comprehensive scientific research conducted in Indonesia. The Constitutional Court further emphasized that, as a matter of open legal policy, the legislature possesses the constitutional authority to determine the substance of statutory regulations. Nevertheless, the Court instructed the Government to promptly undertake valid and comprehensive scientific research on the medical potential of cannabis by involving both governmental and private institutions under the authorization of the Minister of Health. The findings of such research are intended to serve as a sound and careful basis for legislative consideration in formulating future legal policy reforms.

The prolonged absence of legal provisions governing the medical use of Schedule I narcotics has created a significant regulatory vacuum. A logical consequence of this legal stagnation has been the emergence of humanitarian tragedies, one of which is the case of Pika, the daughter of Santi Warastuti, who passed away on 18 March 2025. Pika suffered from cerebral palsy, a neurological disorder that caused recurrent seizures. Medical cannabis was believed to have the potential to reduce or control these seizures without causing certain adverse side effects. As Pika's mother, Santi Warastuti urged the Constitutional Court to encourage the Government to undertake scientific research on the medical use of cannabis as soon as possible. This policy of absolute prohibition raises serious concerns from a human rights perspective. The International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to the enjoyment of the highest attainable standard of health. Denying access to appropriate medical treatment may therefore be regarded as inconsistent with the State's obligation to protect and fulfill the right to health. The State's responsibility to ensure access to modern medical technologies, health information, and clinically tested medicines is closely linked to the realization of this right (Maulana & Avrillina, 2024). Consequently, regulations that restrict access to potentially beneficial medical treatment, including those governing narcotics, should be subject to careful review. By prohibiting the medical use of cannabis, the State limits patients' access to potential therapeutic options and may impede further advances in medical science.

The differences in legal policy between Indonesia and Thailand demonstrate that an absolute prohibition on medical cannabis is not the only approach available in formulating narcotics legislation. Thailand has shown that the medical use of cannabis can be accommodated through a strict regulatory framework without diminishing the State's authority to supervise and prevent narcotics abuse. This experience illustrates that legal policy can be designed to strike a balance between safeguarding the public's right to adequate healthcare and protecting society from the dangers associated with narcotics misuse. Accordingly, Indonesia may regard Thailand's experience as a valuable point of reference in pursuing future legal reform. Nevertheless, such experience should not be adopted wholesale,

as the social, cultural, and legal systems of the two countries differ significantly and therefore require a context-specific approach to legal reform.

In the author's opinion, the classification of cannabis as a Schedule I Narcotic under Article 6 paragraph (1) of Law Number 35 of 2009 concerning Narcotics should be reconsidered. The objective is not to legalize the unrestricted use of cannabis, but rather to provide an opportunity for its limited use for medical purposes based on scientific evidence. This view is consistent with Constitutional Court Decision Number 106/PUU-XVIII/2020, which affirms that changes in legal policy remain possible provided that they are supported by comprehensive scientific research and fall within the authority of the legislature as part of the doctrine of open legal policy. Therefore, a revision of Law Number 35 of 2009 deserves careful consideration in light of scientific developments and the evolving needs of society.

Such reforms should be implemented gradually while adhering to the precautionary principle. One possible alternative is to revise the classification of cannabis for specific medical purposes so that its use is permitted only upon a physician's prescription, for designated medical conditions, and under the supervision of the Ministry of Health and the Food and Drug Supervisory Agency (BPOM). Furthermore, the production, distribution, research, and administration of cannabis-based therapy should be carried out exclusively by institutions that have obtained official authorization from the Government. Under such a regulatory framework, the State would be able to maintain effective control over the circulation of cannabis while at the same time providing access to patients who genuinely require this form of medical treatment.

From the perspective of legal policy, amending Law Number 35 of 2009 also constitutes a response to the advancement of scientific knowledge and the evolving landscape of international law. In essence, the law is not static but should be capable of adapting to the changing needs of society in accordance with the concept of the living law. As an increasing body of scientific evidence demonstrates the therapeutic benefits of cannabinoids in the treatment of refractory epilepsy, chronic pain, multiple sclerosis, chemotherapy-induced nausea, and various other medical conditions, national legislation should likewise provide an appropriate legal framework to accommodate such developments through a responsible regulatory mechanism. Therefore, legal reform should not only aim to establish legal certainty and stability but also to realize the values of justice and public benefit, which constitute the fundamental objectives of lawmaking.

Based on the foregoing analysis, the author is of the opinion that reform of Law Number 35 of 2009 concerning Narcotics has become an urgent necessity. Such reform should not be aimed at legalizing the general or recreational use of cannabis; rather, it should provide a legal basis for the limited use of cannabis as a medical therapy for specific conditions that have been scientifically proven. A policy of this nature is expected to strike an appropriate balance between the interests of law enforcement, the protection of public health, the fulfillment of the right to health, and the advancement of medical science and healthcare technology.

CONCLUSION

Conclusion

1. **Law Number 35 of 2009 concerning Narcotics** regulates the use of narcotics for healthcare purposes in Indonesia. Article 8 paragraph (1) stipulates that cannabis and other Schedule I narcotics may not be used for medical purposes. Only Schedule II and Schedule III narcotics may be utilized within a strict legal framework governing licensing, distribution, and regulatory supervision. Although these provisions are intended to prevent narcotics abuse, the absolute prohibition has resulted in the absence of a legal basis for the medical use of cannabis, despite the growing body of scientific evidence supporting its therapeutic benefits in a number of countries.
2. With regard to the regulation of narcotics for healthcare purposes in Thailand, the country has undertaken significant legal reform through the **Narcotics Code B.E. 2564 (2021)** by providing a legal framework for the medical use of cannabis. This framework is supported by a comprehensive system of licensing, governmental supervision, regulatory restrictions, and a public health-oriented approach. The Thai model demonstrates that the medical use of narcotics can be accommodated without diminishing the State's responsibility to prevent narcotics abuse and illicit trafficking.
3. The comparative analysis of narcotics regulation in Indonesia and Thailand indicates that both countries share the common objective of combating narcotics abuse but differ significantly in their legal policies regarding the medical use of cannabis. Indonesia continues to impose an absolute prohibition on medical cannabis, whereas Thailand permits its limited medical use under a rigorous regulatory and supervisory framework. This difference demonstrates that total prohibition is not the only regulatory model available.

Accordingly, Indonesia may draw valuable lessons from Thailand's experience in reforming **Law Number 35 of 2009 concerning Narcotics**, particularly with respect to the application of the precautionary principle, the protection of the right to health, and the formulation of evidence-based regulations governing medical cannabis. While maintaining effective state supervision, Thailand's experience may serve as an important reference for future legal reform in Indonesia.

Recommendations

1. The Government is encouraged to review the provisions of **Law Number 35 of 2009 concerning Narcotics**, particularly those relating to the prohibition of cannabis for medical purposes. Such a review should take into account advances in scientific knowledge and the findings of contemporary scientific research.
2. The Ministry of Health, in collaboration with research institutions, is encouraged to expand scientific research on the benefits and risks of medical cannabis so that the findings may serve as an evidence-based foundation for future legal and policy development in Indonesia.
3. Thailand's experience in regulating the medical use of cannabis may serve as one of the references for future legal reform in Indonesia. Nevertheless, its implementation should be adapted to Indonesia's social, cultural, and legal context rather than being adopted wholesale.
4. Future researchers are encouraged to undertake further comparative studies on the implementation of medical cannabis policies in other countries. Such research is expected to provide more comprehensive insights and recommendations for the future development of Indonesia's legal framework governing medical cannabis.

REFERENCES

Books

- Arief, Barda Nawawi. (2021). *Bunga Rampai Kebijakan Hukum Pidana*. Jakarta: Kencana.
- Dahlan. (2017). *Problematika Keadilan Dalam Penerapan Pidana Terhadap Penyalah Guna Narkotika*. Yogyakarta: Budi Utama.
- Husin, & Rahmadan, D. (2025). *Rehabilitasi VS Pemenjaraan: Dilema Penegakan Hukum Terhadap Penyalahguna Narkotika Di Indonesia*. Penerbit Adab.
- Kurniawan, Riza Alifianto. (2023). *Kejahatan Terorganisasi Pelaku Tindak Pidana Narkotika*. East Java: Airlangga University Press.
- Marzuki, Peter Mahmud. (2021). *Penelitian Hukum* (Revised Edition). Jakarta: Prenadamedia Group.
- Rizka. (2025). *Kebijakan Legalisasi Ganja Medis di Asia: Perbedaan antara Indonesia dan Thailand*. Surakarta: Muhammadiyah University Press.
- Syah, Kaharuddin, & Manan, Abdul. (2025). *Buku Ajar Hukum Pidana*. East Java: Uwais Inspirasi Indonesia.
- Suyono, R. G., Murhaini, S., & Kristanto, K. (2026). *Narkotika: Dinamika Hukum, Pencegahan, dan Tantangan Penegakan di Indonesia*. PT Sonpedia Publishing Indonesia.

Journal Articles

- Akahat, N. (2025). "Post-2021 Narcotics Code: Spatial Risk Assessment for Drug Control in Chiang Rai, Thailand." *Asian Crime and Society Review*, 12(1).
- Arfiani, N., & Utami, I. W. (2022). "Penggunaan Ganja Medis dalam Pengobatan Rasional dan Pengaturannya di Indonesia." *Jurnal Hukum dan Etika Kesehatan*.
- Assanangkornchai, S., Thaikla, K., Talek, M., & Saingam, D. (2022). "Medical Cannabis Use in Thailand After Its Legalization: A Respondent-Driven Sample Survey." *PeerJ*, 10, e12809.
- Bagir, A. H. M. (2024). "Pembatasan Pemanfaatan Ganja untuk Kepentingan Medis dalam Perspektif Kepastian Hukum Kesehatan di Indonesia." *YUDHISTIRA: Jurnal Yurisprudensi, Hukum dan Peradilan*, 2(4), 60–75.
- Harmiko, M. W. (2024). "Perspektif Hukum dan Hak Asasi Manusia Mengenai Legalisasi Narkotika untuk Keperluan Medis." *Jurnal Kajian Hukum dan Kebijakan Publik*, 2(1).
- Jumbang, M. Alvi, et al. (2026). "Urgensi Legalisasi Ganja Medis di Indonesia dalam Perspektif Hukum Kesehatan dan HAM." *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 4(1).
- Nazaryadi, N., Adwani, A., & Ali, D. (2017). "Pemenuhan Hak Kesehatan Narapidana di Lembaga Pemasyarakatan Narkotika Langsa." *Syiah Kuala Law Journal*, 1(1), 157–168.

- Rais, M. T. R. (2022). "Negara Hukum Indonesia: Gagasan dan Penerapannya." *Jurnal Hukum Unsulbar*, 5(2).
- Salsabila, Arsyanda Shira, & Faisal. (2026). "Comparative Analysis of Marijuana Criminal Law in Indonesia and Thailand: Insights for Narcotics Law Reform." 26(2).
- Triyatna, Anak Agung Gede, et al. (2024). "Juridical Analysis of the Regulations on the Use of Cannabis for Medical Purposes in Indonesia (A Comparative Study with Thailand)." *Jurnal Hukum Prasada*, 11(1).
- Auliah, N. R., Delicia, B. M., Nirvana, B., Zahra, F. A., & Pebriyani, A. (2025). "Penggunaan Obat Terlarang dalam Medis: Perspektif Hukum Positif dan Hukum Islam." *Jurnal Riset Multidisiplin Edukasi*, 2(10), 695–711.
- Warsiman, W., Saputra, J. H., & Sipahutar, A. (2023). "Penerapan Hukum terhadap Anak sebagai Pelaku Penyalahgunaan Narkotika." *Jurnal Normatif*, 3(2), 310–320.
- Wibowo, K. T., Soraya, J., Kristanto, K., & Juita, S. R. (2025). "Tindak Pidana Narkotika." *AMU Press*.

Legislation and Court Decisions

- **Constitution of the Republic of Indonesia of 1945** (*Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*).
- **Law Number 35 of 2009 concerning Narcotics**.
- **Constitutional Court Decision Number 106/PUU-XVIII/2020**.
- **Narcotics Code B.E. 2564 (2021)** (Thailand).

Internet and Other Sources

- Alinea.id. "Duka Pika Sasikirana dan Urgensi Riset Ganja Medis di Indonesia." Accessed 13 July 2026.
- DetikHealth. "Pika Anak dari Ibu yang Viral Suarakan Legalisasi Ganja Meninggal Dunia." Accessed 19 July 2026.
- Kompas.com. "Kisah Ganja Medis Fidelis untuk Sang Istri yang Berujung Bui." Accessed 13 July 2026.
- https://nasional.kompas.com/read/2022/06/29/13511341/kisah-ganja-medis-fidelis-untuk-sang-istri-yang-berujung-bui?page=all
- https://www.alinea.id/peristiwa/kepergian-pika-dan-urgensi-ganja-medis-b2nk39Rtd
- https://health.detik.com/berita-detikhealth/d-7835828/pika-anak-dari-ibu-yang-viral-suarakan-legalisasi-ganja-meninggal-dunia