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# COMPARATIVE STUDY ON THE PROTECTION OF THE RIGHT TO HEALTH THROUGH THE REGULATION OF CANNABIS USE IN INDONESIA AND THAILAND

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## Abstract

Cannabis is a plant that has medicinal benefits. However, the use of cannabis is prohibited by Indonesian Law Number 35 of 2009 concerning Narcotics, which states that cannabis is a Class I narcotic and cannot be used for medical purposes. This is contrary to the right to obtain health services and the state is obliged to provide them. A number of studies on the medicinal benefits of cannabis plants have created a new debate in Indonesia regarding the relative benefits of constitutional regulation and medical treatment. In other state policies, Thailand has updated its cannabis legalization arrangements, which have had a good impact on several sectors. This paper aims to analyze the regulation of cannabis in Indonesia and in Thailand comparatively, as well as examine the impact of the regulation of cannabis legalization in Indonesia and in Thailand.

**KEYWORDS**
cannabis, health, regulation, Indonesia, Thailand.

# Introduction

Human Rights are a set of basic rights that are inherent in every individual from birth and cannot be revoked or transferred by anyone. This right is universal, which means that it applies to all human beings regardless of race, religion, gender, social status, or national origin. The concept of human rights is rooted in the principle of respect for human dignity, which affirms that everyone has the same value as a living being[1]. Human rights cannot be revoked or deprived but must be upheld and must be respected, protected by every person, state, government and law, for the honor and protection of human dignity and dignity.[2] Human rights encompass various aspects of life, ranging from civil and political rights, such as: the right to life, freedom of expression, and the right to choose, social, and cultural, as well as the right to health and well-being.

The enforcement of human rights in Indonesia has a strong foundation in history, constitution, and laws and regulations, as a country that upholds the principles of people's sovereignty and social justice. As a country that adheres to the principles of the rule of law and the rule of law, Indonesia needs legal protection to realize justice and legal certainty for all its people so that it can realize the welfare and prosperity of the people.[3] This is supported because Indonesia has ratified various international instruments related to human rights, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which further strengthen the position of human rights in the national legal system. Human Rights have also been explicitly recognized as written in the 1945 Constitution. The recognition

[1] Kuswan Hadji, Devina Angelica. (2024). Legal Protection Against Human Rights in Constitutional Law

[2] Khairul Azhar, Muhammad Sakha Sinaga. (2022). THE IMPORTANCE OF RIGHTS HUMAN RIGHTS (HAM) IN THE STATE

[3] Salma Elsa Anindya, Ratih Damayanti. (2024). Legal Protection Towards the Rights and Obligations of Workers in Indonesia: Challenges and Solutions

reflects Indonesia's commitment as part of the international community that respects the Universal Declaration of Human Rights (DUHAM) in 1948.

In particular, the 1945 Constitution has protected the rights of everyone in Article 28A to Article 28J. These articles cover a wide range of basic rights, such as the right to life, freedom of religion, freedom of expression, the right to education, the right to protection from discrimination, and the right to health. The right to health is an integral part of economic, social, and cultural rights that must be progressively fulfilled by every country. The principle of progressive fulfillment of rights emphasizes that the state has an obligation to continue to take concrete steps towards the fulfillment of these rights to the maximum extent in accordance with the resources it has. Therefore, the protection of rights related to the restriction of access to health services, including the use of alternative medicine for medical purposes, must be based on rational, proportionate and scientific evidence-based considerations. This is because the state is not only required to avoid human rights violations, but also to actively create conditions that allow people to gain access to safe and effective health services.

On a global scale, the protection of the right to health is a manifestation of the **Sustainable Development Goals (SDGs) agenda, especially in the 3rd goal** which emphasizes a healthy and prosperous life for all people of all ages. Achieving this goal requires the state to not only provide basic health services, but also ensure accessibility to safe, effective, and quality essential medicines through the regulation of medicines based on scientific evidence. Thus, harmonization between national regulations and human rights principles is the main key in realizing the welfare of the people with justice.

As with every right, the exercise of the right to health is not absolute and can be limited in order to maintain public order and public health,

because in essence the balance of rights and obligations is a benchmark for the achievement of justice.[4] One of the issues that has become a debate in various countries is the restriction of human rights through the prohibition of the use of cannabis for medical needs. On the one hand, the ban is considered an effort by the state to protect its citizens from the adverse effects of narcotics abuse. But on the other hand, there is an opinion that banning the use of cannabis, especially for medical purposes, can hinder an individual's right to access to health. This raises a complex debate about the extent to which states can restrict human rights without violating the principles of justice and proportionality.

In regulation on an international scale, different countries have different approaches to regulating cannabis, ranging from full prohibition to partial legalization for medical and recreational purposes. Countries that are beginning to open up the space for the legalization of medical cannabis are generally based on the results of scientific research that show significant therapeutic benefits, as well as the need to provide treatment alternatives for patients with certain conditions that do not respond to conventional therapies. In Indonesia, the use of cannabis is completely prohibited under Law Number 35 of 2009 concerning Narcotics, which classifies cannabis as a class I narcotic without medical benefits. The overall cannabis prohibition policy shows the dominance of a repressive approach in the narcotics legal system. This has implications for limited space for scientific discourse and alternative policies that are more adaptive to global developments. In addition, the lack of recognition of the medical benefits of cannabis in national regulations has the potential to lead to inequality in access to health services, particularly for individuals who need cannabis-based therapies.

Based on these conditions, it is necessary to conduct a more in-depth study of the relevance of existing policies, so that it is not only oriented to

[4] Deni Setiyawan, Noor Rahmad. (2023). Health Law, *p. 23*

the prohibition aspect, but also considers the principles of justice and usefulness in fulfilling the right to health. This is because these arrangements are often seen as a form of restriction on individual freedom and the right to health, especially for those who rely on cannabis as a medical therapy for certain diseases. However, the government argues that the ban aims to protect the public from the wider risk of narcotics abuse. In Thailand, ahead of 2019, cannabis was legalized by the Thai government on the sidelines of a political party election there and used it as a priority policy for the March 2019 general election[5]. Cannabis for medical needs was officially legalized in Thailand on February 18, 2019, which made Thailand the first country to implement it and accept its impact in Southeast Asia. Therefore, the discussion on the prohibition of the use of cannabis does not only touch the realm of legality, but also concerns the interrelated economic, health, and human rights impacts.

# Methods

This research uses normative juridical research methods. In this context, the researcher annotates the decision by examining the relevant court decision to identify the legal considerations used by the judge in deciding a case.[6] The author also looks at how government regulation and people's representative legislation regarding the legality of cannabis for medical treatment that occurred in Indonesia and Thailand uses comparative legal theory. Rudolf B. Schlesinger said that *Comparative Law* is a method of investigation with the aim of gaining deeper knowledge about certain legal materials.[7] The author collects data through various sources related to the research topic, such as scientific journals, papers,

[5] Akbar Yudha Pratama, then Saepuddin. (2023). Comparative Study Between Indonesia and Thailand related to the marijuana legalization policy. Volume 1. No 1. Journal Parkesia.
[6] Ratih Damayanti, Rizqan Naelufar. (2024). Employee Position Analysis Outsourcing: A Study of the Constitutional Court's Decision Number 168/PUU XXI/2023
[7] Soerjono Soekanto, Legal Comparison, AlumniBandung, 1979

articles, and other publications. Although in this study there was no data collection carried out through observation, the data collected came from written sources. The juridical-normative approach in legal discourse fundamentally emphasizes a comprehensive examination of the statutory *approach*, doctrinal consistency, and harmonization between general law principles and the protection of human rights.[8]

In Indonesian jurisdictions, the urgency of regulatory restructuring begins with the formulation of a medical research licensing scheme that integrates the principles of transparency and public accountability, without negating the strict-control aspect of supervision. This is substantially in line with the legal ratio of Article 8 paragraph (2) of Law Number 35 of 2009 concerning Narcotics, which in its existence provides constitutional discretion for the use of Class I narcotics for the acceleration of science. The data analysis technique used is a descriptive analysis technique by analyzing, descripting, and summarizing the data and information that has been obtained.

# Result and Discussion

## 1. Cannabis Legalization Arrangements in Indonesia

In the Preamble to the 1945 Constitution, it was stated that the political purpose of Indonesian law was to "protect all Indonesian people and improve the general welfare based on Pancasila."[9] Regulations regarding narcotics existed before Indonesia's independence, which was listed in the *Verdoovende Middelen Ordonnantie* (VMO) in 1927. The legal provision prohibits the use of cannabis because it is classified as a 1925 International Opium Convention, which implies that cannabis must follow

[8] Jennifer Royhan; Saraya Gaisan. (2023). Law and Morality: Dimensions Philosophical in Law Enforcement

[9] Akbar Yudha Pratama, then Saepuddin. (2023). Comparative Study Between Indonesia and Thailand related to the marijuana legalization policy. Volume 1. No 1. Journal Parkesia.

the export licensing mechanism and import certification. The VMO aims to regulate the consumption and production of opium, particularly in relation to the opium monopoly in the Dutch East Indies, where cannabis is often used as a substitute for opium. After independence, Indonesia ratified two conventions on narcotics and psychotropics, namely the 1961 Single Convention on Narcotics and the 1971 Psychotropic Convention. The Single Convention was ratified through Law No. 8 of 1976 which ratified the Single Convention on Narcotics 1961 and its Amendment Protocol.[10]

The Indonesian state still holds the view that cannabis is an illegal and harmful plant. Based on Appendix 1 point 8 of Law Number 35 of 2009 concerning Narcotics, cannabis is still included in class one narcotics. Like other narcotic substances, Indonesia prohibits cannabis for medical purposes because it is considered to be dangerous and has two inherent sides. On the functional side, medical cannabis is a substance that can be used as a drug or a useful ingredient both in the field of medicine or medical services and the development of health sciences, but in terms of its substance circulation, cannabis is considered dangerous because it can risk triggering destructive addiction if there is abuse outside of strict and appropriate control and supervision.

In Article 7 of Law Number 35 of 2009 concerning Narcotics, it is explained that narcotics can only be used for the purposes of health services, scientific and technological development. However, in the explanation of Article 6 paragraph (1) letter a explained in this provision, what is meant by "Class I Narcotics" is Narcotics that can only be used for the purpose of scientific development and are not used in therapy, and have a very high potential to cause dependency so that in Article 8 paragraph (1) it is explained that group one narcotics are prohibited from being used for the purpose of health services. This classification is actually contrary to various

[10] Idham. G. W (2021) The Politics of Medical Law in Indonesia. Article history. Vol.7(6)

clinical findings that show the risk content of cannabis is far below legal substances such as nicotine and alcohol. This is because the content of cannabis works on the body's endocannabinoid system which naturally regulates the balance of functions without triggering destructive addictive dopamine spikes.[11] Many health experts argue that the symptoms of withdrawal from medical cannabis use are very mild and do not pose a fatal physiological threat to the user.[12] Considering that there has never been a death rate due to a cannabis overdose in practice, the classification of drugs against cannabis in Indonesia has become like a legal irony that is not supported by the latest empirical data.

The provision of access to health resources to the community is the obligation and responsibility of the state, as stipulated in Article 4 paragraph (1) letter e of the Health Law, which reads:

"Everyone has the right: access to Health Resources"[13]

Therefore, the state has an obligation to supervise the use of narcotics so that it is not abused. On the other hand, the state must also ensure the fulfillment of the right to safe and quality health services, in accordance with the mandate of Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which reads "Everyone has the right to live a prosperous life from the inside, the right to live, a good and healthy living environment, the right to health services". In society, narcotics are often associated with things that are prohibited, haram, and should be avoided.[14] Until now, often individuals who use narcotics, even for medical needs, are considered sinful, criminal, or a burden to society. In other words, drug

[11] Hamidah Abdurrachman, Fajar Ari Sudewo. (2023). Prospects for the Legalization of Cannabis for Medical Needs. Journal of Sharia Social and Cultural Vol. 10 No. 5

[12] Yusup Sobirin, Oyo Sunaryo Mukhlas. (2023). LEGAL VIEWS ISLAM ON THE BENEFITS OF LEGALIZING MARIJUANA FOR MEDICAL PURPOSES

[13] Law Number 17 of 2023 concerning Health

[14] Muhammad Irfan Kamil, Sulistyanta. (2026). Medical Marijuana Regulation in Criminal Law: International Comparison and Its Implications for Indonesia.

users often get a negative stigma. In positive law, cannabis is still considered a prohibited item. Until now, the courts still give fairly severe penalties for those who carry, send, or transport cannabis. This means that anyone who violates the provisions in the Narcotics Act hardly gets leniency. The reality of law enforcement in Indonesia reflects a sharp and partial inequality between the text of the law as a policy and a sense of substantive justice in society. This injustice is evident when the law strikes all perpetrators equally without considering the intentions behind cannabis possession, especially for those who use it for humanitarian and survival reasons. This condition shows that the formalistic approach to law enforcement still dominates judicial practice in Indonesia. In the case of criminalization of cannabis use, judges tend to adhere textually to the provisions of the law without providing adequate space for contextual considerations, such as social background, health conditions, and the purpose of cannabis use by the defendant. In fact, in the development of modern law, law enforcement is not only required to ensure legal certainty, but must also be able to present substantive justice that takes into account human values and proportionality. When these aspects are ignored, the resulting verdict has the potential to cause public dissatisfaction and erode public trust in the judicial institution.

In his judgment, the application of heavy criminal sanctions without clear differentiation between abusers, medical users, and perpetrators of illicit circulation shows weaknesses in the form of regulations on the use of cannabis itself. The regulation of the use of cannabis is not able to distinguish the characteristics of the perpetrator appropriately, which will tend to produce a condition where too many acts are criminalized without considering the level of danger caused. In this context, individuals who should receive protection as patients are actually positioned as perpetrators of criminal acts, thus experiencing multiple impacts, both legally and socially.

In addition, an approach that is insensitive to the humanitarian aspect also has the potential to strengthen social stigma against individuals who are entangled in cannabis cases. This stigma not only impacts the individual in question, but also on his or her family and social environment. They often experience discrimination, difficulties in obtaining jobs, and limitations in accessing social services. In the context of medical users, the stigma can even prevent them from seeking the help or treatment they need, thus worsening their health conditions. By allowing severe punishments to remain imposed without regard to medical urgency, the state has indirectly neglected its responsibility to protect citizens' right to health, creating a paradox in which laws that are supposed to protect the people are actually instruments that deprive people of the right to life and dignity.

Therefore, although cannabis has been designated as a prohibited narcotic for medical use, Indonesians who need cannabis for medical needs are still known to use cannabis and its products illegally as medicine. In 2017, Fidelis Arie Sudewarto was sentenced to eight months in prison and a fine of Rp 1,000,000,000.00 plus one month in prison for growing 39 cannabis stalks and using its extract for the therapy of his wife suffering from *syringomyelia*. This action was taken after he searched for international references that showed that cannabis extracts could be used to treat the disease.[15] In line with the urgent medical need, there is one significant request to affirm the urgency of reforming the regulation of the use of cannabis in Indonesia, namely a case of applying for the legalization of cannabis at the Constitutional Court which has been decided with decision number 106/PUU-XVIII/2020.

[15] Hamidah Abdurrachman, Fajar Ari Sudewo. (2023). Prospects for the Legalization of Cannabis for Medical Needs. Journal of Sharia Social and Cultural Vol. 10 No. 5.

In the Constitutional Court's decision number 106/PUU-XVIII/2020, the application was addressed by the applicant for the testing of Law Number 35 of 2009 concerning Narcotics against the 1945 Constitution of the Republic of Indonesia, which is related to the legalization of cannabis, which was submitted by 6 (six) applicants. The applicant consists of three mothers representing their children, applying as Indonesian citizens who feel that their constitutional rights have been violated (Dwi Pertiwi, Santi Warasyuti, and Nafiah Murhayanti, S.Md). In addition, there are three other applicants representing private legal entities (Perkumpulan Rumah Cemara, *Institute for Criminal Justice Reform*, and Perkumpulan Lembaga Bantuan Masyarakat Masyarakat (Community Legal Aid Institutions). Overall, in the legal standing examination, the six applicants who submitted the application were declared to meet the legal standing requirements and had rights and interests in submitting the application. Applicants are made up of individuals and organizations who believe they have a constitutional right to access safe and effective treatment. They consider that banning the use of cannabis for medical purposes harms their right to proper health care. The 3 mothers of the six applicants each have children with *Cerebal Palsy*.

It is known that the Applicant, named Dwi Pertiwi, believed that the only alternative treatment that could save his child at that time was cannabis treatment for medical needs. After being treated with the cannabis, every day for a full month from November 2016 to December 2016, the condition of Dwi Pertiwi's children became much better. It is known that his child appears to experience a relaxation effect or is significantly calmer, more focused, the condition of muscles and bones becomes softer, and the symptoms of seizures stop completely. During that period, Dwi Pertiwi's children did not consume medicine from doctors at all. However, Dwi Pertiwi decided to stop the treatment by using cannabis to her son after knowing the risk of criminal consequences that threatened her. Although

her child's health condition has shown very significant development, the Applicant Mrs. Dwi Pertiwi lost her child on December 26, 2020 due to the condition suffered by her child. Overall, the petitioners felt the same disadvantage over the right to health care that the state should have provided.

However, the Constitutional Court Judge in the decision rejected the applicant's application in its entirety. This is based on several considerations, including: the Petitioners' requests, the testimony of the DPR, the testimony of the President, the testimony of Experts and Witnesses, and others. In the applicants' application, the judge considered that the applicant's statement did not have urgency stating that certain types of narcotics could be used for medical treatment. On the one hand, certain narcotics can be useful as drugs or substances that have a good impact on medicine and health services as well as the development of science. However, on the other hand, these narcotics can also cause high addiction to users and can have a negative impact if abused or used without strict supervision. Narcotics abuse can have bad consequences and be very detrimental to the life of the nation and state, which can ultimately damage the next generation. The judge also considered that the Petitioners' arguments cannot be used as a measure that all types of narcotics can be easily used for health services that are acceptable to all countries.[16] This is due to the differences in the characteristics of narcotics types, legal habits and culture, as well as supporting facilities and infrastructure. Therefore, the Constitutional Court judge considered that Indonesia is not ready to implement the same regulations as countries that have legalized the use of cannabis. Of course, the judge's decision in the Constitutional Court decision 106/PUU-XVIII/2020 strengthens that there are still restrictions

[16] Leonie Lokollo, Yonna Beatrix Salamor, Erwin Ubwarin. (2021). Policy Formulation of the Narcotics Law in the Legalization of Use Cannabis as a medicinal ingredient in Indonesia. Volume. No. 2.

on health rights related to the use of cannabis as a medical tool until now in Indonesia.

The impact of cannabis illegality in Indonesia has created a variety of complex social and legal problems. Cannabis's status as a class I narcotic makes its use for medical purposes unwarranted, although there is evidence to show its potential benefits in the treatment of some health conditions. This has led to many patients in need of alternative medicine being forced to look for illegal ways to gain access to cannabis, as happened in the case of Fidelis Arie Sudewarto, who was arrested for using cannabis extract to treat his wife who was suffering from a rare disease. The inability of the legal system to accommodate these medical needs not only harms individuals but also adds to the burden on the existing health system.

After the Constitutional Court decision number 106/PUU-XVIII/2020, violations of cannabis-related narcotics laws often lead to severe penalties for violators. Courts in Indonesia still sentence long prison sentences to individuals who are proven to possess or use cannabis, albeit in small amounts. This suggests that the legal system has not fully considered the medical context or needs of the individual. In line with these conditions, the social stigma against cannabis users still exists massively due to the existing legalization of cannabis. Society tends to think of cannabis users as criminals or individuals who engage in deviant behavior.[17] This stigma can lead to social isolation for those who use cannabis for medical purposes, thus hindering them from seeking help and support. As a result, many individuals choose not to disclose their cannabis use, even when it is the only effective treatment option for them. This creates an environment where public health needs are not met and worsens the quality of life of many people. Thus, the impact of cannabis illegality is not only

[17] Harkrisnowo, I. (2023). "The Dilemma of Narcotics Criminalization and the Right to Health in Indonesia: A Judicial Review". Journal of Law & Development, 53.

visible from a health and social point of view but also creates a major challenge in law enforcement and human rights protection in Indonesia. Therefore, there is a need for a reformulation in the enforcement of narcotics laws, especially the regulation of the use of cannabis that does not solely focus on punishment, but also considers a more humane and fair approach. The reformulation can be carried out through a review of existing legal provisions, giving wider discretion to judges, and strengthening a rehabilitative approach for users, especially those with medical reasons. With this step, it is hoped that the legal system in Indonesia can be more responsive to the needs of the community and be able to realize justice that is not only formal, but also substantive and oriented towards the protection of human rights.

## 2. Cannabis Legalization Arrangements in Thailand

The legalization of cannabis in Thailand shows a significant evolution in the regulation of narcotics in the Southeast Asian Region. Since ancient times, cannabis has been used in Southeast Asia as a cooking spice, a source of fiber, and a traditional medicine for muscle diseases. However, in the 1930s, the use of cannabis in Thailand for medical purposes was banned, and until 1979, the plant was still considered illegal under the Thai Narcotics Act BE 2522. In 2013, Thailand adopted the *War On Drugs* policy, which is a war to fight narcotics that was implemented first by the United States. Although Thailand has taken a firm stance against narcotics trafficking and smuggling of goods in its country, every year the number of cases of narcotics abuse is increasing and has a considerable risk of death. Thailand considers the *War On Drugs* policy to have a negative impact on the welfare of the community, security, and the development of the country. Therefore, there was support from the Thai Parliament to make amendments to the law, which eventually led to the legalization of cannabis for medical purposes.

On January 1, 2019, Thailand officially legalized cannabis for medical purposes through Law No.7 BE 2562. The Thai government realizes that this repressive approach has not succeeded in reducing the number of narcotics abuse, but has a negative impact on public welfare, security, and national development. In addition, there is strong political support in parliament where the legalization of cannabis is made a priority policy ahead of the 2019 general election. This initial step makes Thailand the first country in Southeast Asia to recognize the use of cannabis.[18] With this change, the Thai government began to implement stricter regulations regarding the production and sale of cannabis.

Thailand's Narcotics Act was later updated into BE Law 2564 and made in 2021, which set clearer rules regarding the use of cannabis for medicine, which could assert that Thai people are allowed to possess cannabis privately but must be approved by the government. Thai people can also be imprisoned, if they are found selling, exporting, importing, buying and using cannabis without the consent of an official regulatory body. Government and research agencies, medical practitioners, including doctors, dentists, pharmacists, veterinarians, traditional health practitioners and patients are granted licenses to consume, possess, conduct research, or produce and trade cannabis under specific guidelines.

Under the new law, possession of cannabis for individuals is allowed in certain amounts, provided the owner has a valid prescription and certification from the authorities. This shows that Thailand is trying to regulate the legal and safe use of cannabis, while still paying attention to public health aspects. Therefore, Thailand strives to fulfill public health rights, even to alternative medicine. This regulation of the use of cannabis aims not only to provide access to those who need cannabis-based treatment but also to develop industries related to the responsible use of the plant.

[18] Eviera Riza Indriani, Abdul Majid. (2022). The Legalization of Medical Cannabis: A Comparative Approach of The Thai Narcotics Act B.E.2522

Operationally, legitimate certification from the authorities involves a process of verifying the patient's identity and medical records that are integrated into the national health database system. Each prescription issued by a certified medical professional must contain details regarding the dosage, duration of use, and type of plant derivative that is appropriate to the patient's clinical indications. This protocol ensures that possession of a certain amount of cannabis by an individual is not considered a violation of the law, but rather as part of compliance with state-supervised therapeutic procedures.

The impact of the legalization of cannabis in Thailand has brought significant positive changes in various aspects of people's lives, especially in the health, economic, and social sectors. After officially legalizing cannabis for medical purposes in 2019, Thailand became the first country in Southeast Asia to recognize the benefits of this plant in alternative medicine. This regulation of cannabis use provides an opportunity for patients to access alternative treatments that were previously prohibited, as well as paving the way for further research into the medical potential of cannabis. With this legalization, many patients who previously had no treatment options can now benefit from the legalization of cannabis policy, which is the use of medical cannabis, especially for conditions: chronic pain, sleep disorders, cancer and epilepsy.[19]

Economically, the legalization of medical cannabis in Thailand has also had a positive impact. The country began to develop a sustainable cannabis industry, creating new jobs in the cultivation, production, and distribution of cannabis-based products.[20] The Thai government encourages farmers to turn to cannabis cultivation as an alternative source of income, which can improve the economic well-being of rural

[19] Akbar Yudha Pratama, then Saepuddin. (2023). Comparative Study Between Indonesia and Thailand related to the marijuana legalization policy. Volume 1. No 1. Journal Parkesia.
[20] Ipa Hudaipa. (2024). The Effect of Marijuana Legalization in Thailand on ASEAN Regional Security.

communities. The development of this responsible cannabis industry sparked the growth of new economic sectors involving the active participation of the private sector and local communities. The construction of a pharmaceutical-standard processing plant allows Thailand to produce plant-based health products that are competitive in the international market. The description of the industry also includes ongoing research and development aspects in universities to explore the genomic potential of these plants in addressing various degenerative diseases. Thus, this regulation serves as a comprehensive framework to balance the medical access needs of citizens with efforts to encourage national economic growth through the legal, measurable, and science-based use of natural resources. In addition, with clear regulations regarding the production and sale of medical cannabis, the state can collect taxes from the industry, which in turn can be used to fund health programs and other sectors.

In addition, this legalization arrangement also has a bad social impact. While the legalization of medical cannabis has helped reduce the negative stigma against cannabis users, challenges remain in terms of public understanding of the responsible use of cannabis. Some people still consider cannabis to be a dangerous narcotic, so more intensive education efforts are needed to increase public awareness about the benefits and risks of using medical cannabis. In addition, the government needs to ensure that existing regulations are strictly enforced to prevent abuse and ensure that only a few sectors with official approvals and permits can access cannabis-based products.

Despite the demikkian, Thailand's success in making arrangements to legalize cannabis is also inseparable from a regulatory approach that is comprehensive and adaptive to social dynamics. The government not only establishes formal rules regarding cannabis possession and use, but also establishes an institutional framework that supports the effective implementation of the policy. This can be seen from the involvement of

health institutions, drug regulatory agencies, and research institutions in supervising the distribution and use of medical cannabis. With an integrated surveillance system, the potential for abuse can be suppressed without sacrificing public access to medical needs. In addition, an evidence-based approach is a key foundation in policy formulation, where every step taken is based on the results of scientific research and empirical evaluation. This model shows that legalization is not solely a political decision, but part of a measurable policy strategy to improve the quality of life of society as a whole.

On the other hand, Thailand's experience also provides an important lesson regarding the importance of balancing liberalization and state control in narcotics regulation. The legalization of cannabis that is not accompanied by a strong regulatory system has the potential to cause various new problems, such as increased non-medical consumption, excessive commercialization, and market exploitation by certain parties. Thailand continues to make policy adjustments through periodic evaluations to ensure that the initial goal of legalization remains achieved.[21] In this context, transparency and accountability are important principles in maintaining public trust in the policies taken. For Indonesia, this can be a reflection that any policy reform effort, especially related to sensitive issues such as cannabis, must be carried out carefully, gradually, and based on long-term interests. By adopting a measurable and participatory approach, Indonesia has the opportunity to formulate policies that are not only responsive to public health needs, but also maintain social stability and legal certainty.

Overall, the impact of cannabis legalization arrangements in Thailand reflects a paradigma shift in approaches to narcotics and public health. By harnessing the medical potential of cannabis legally and

[21] Masyhadi, Akhmad Riyadh. (2024). Transformation of Narcotics Policy: An Analysis of Factors Affecting the Legalization of Marijuana as a Desecuritization Measure in Thailand.

regularly, Thailand is not only improving the accessibility of treatment for patients but also creating new economic opportunities and improving the social stigma of cannabis use. The success of cannabis legalization is highly dependent on collaborative efforts between governments, civil society, and the health sector to ensure that its benefits can be widely felt without negatively impacting society. The following is a comparison of the regulation of cannabis use between Indonesia and Thailand:

| **Comparative Aspects** | **Indonesia** | **Thailand** |
|---|---|---|
| Legal Status | Class I narcotics; is strictly prohibited for health services and therapy. | It has been legalized since 2019 through Law No. 7 BE 2562. |
| Regulatory Basis | Law Number 35 of 2009 concerning Narcotics. | Narcotics Law BE 2564 ( 2021). |
| Medical Access | Not allowed; Use for medical purposes is still considered criminal | Authorized with a doctor's prescription and valid certification from the authorities. |
| Legal Sanctions | Severe punishment (imprisonment and large fines) for the owner or user even | Private ownership is allowed with a license; Sanctions apply if without official permission. |

| | | |
|---|---|---|
| | for medical purposes. | |
| Economic Impact | There is no legal economic utilization of cannabis plants. | The development of the medical cannabis industry, job creation, and state tax sources. |
| Human Rights Perspective | Restriction of the right to health for the sake of public order/public health. | Respect for the individual's right to access health and effective treatment. |

# Conclusion

The restriction of the right to health through the regulation of the use of cannabis in Indonesia reflects the dilemma between the protection of public health and respect for the rights of individuals, especially in the context of access to medical treatment. The policy is based on Law Number 35 of 2009 placing cannabis as a Class I narcotic, which is prohibited for medical purposes. Although the government argues that this policy is aimed at preventing narcotics abuse, a total ban is often considered to hinder the fulfillment of the right to health, as mandated by the 1945 Constitution. The phenomenon found in the application for legislative testing in the Constitutional Court in the Constitutional Court ruling shows how urgent medical needs cannot be met due to the rigid legal framework. This raises a fundamental irony about the balance between human rights restrictions and justice for individuals in need. The dynamics of cannabis regulation in Indonesia show that the legal approach cannot be separated from the

development of science and the real needs of society. Within the framework of a state of law that upholds human rights, restrictions on the right to health should not be absolute, but rather proportionate and based on rational considerations and adequate scientific evidence. **This is also supported by a fact that Indonesia's commitment as part of the international community to achieve the 3rd goal of the 2030 SDGs,** Indonesia needs to review the rigidity of narcotics regulation to be more responsive to substantive health needs.

Therefore, political and legal reforms, both executive and legislative, are needed to carry out a comprehensive reformulation of existing cannabis use regulations, by opening up a space for dialogue between policymakers, medical personnel, academics, and the public. The role of civil society and academia is also an important factor in driving evidence-based policy reform. Healthy and constructive public discourse can help reduce stigma and increase public understanding of medical cannabis issues. Comprehensive scientific research is also needed to provide a solid basis for policymaking. In this regard, collaboration between the government, universities, and research institutions is essential to produce policies that are not only responsive, but also sustainable. With an inclusive and adaptive approach, it is hoped that a new formulation can be created regarding the regulation of cannabis use that not only maintains order and prevents abuse, but also ensures the fulfillment of the right to health in a fair and humane manner for every individual in a community entity.

The legalization of cannabis in Thailand can provide an alternative picture of how cannabis can be legally regulated for medical purposes. With strict regulations and government support, Thailand has successfully harnessed the potential of cannabis for medicine, improved public health access, and developed new economic opportunities through the cannabis industry. These different approaches suggest that policies based on scientific research and community involvement can result in a more

balanced solution between restrictions and respect for human rights. Therefore, Indonesia can adapt from Thailand's cannabis legalization policy to re-evaluate cannabis-related policies, taking into account the broader medical benefits and socio-economic impacts, without ruling out the risk of its abuse.

Alternative policies related to the legalization of cannabis in Indonesia that could be considered include more flexible arrangements regarding the use of medical cannabis. Legislators can adopt an evidence-based approach that considers the results of scientific research on the benefits of cannabis in the treatment of various diseases. Thus, the new law could make room for the use of cannabis in medical practice, provided that it is carried out under strict supervision and with the approval of the competent health institution. An impartial regulation of cannabis use followed by accurate supervision will provide optimal protection of the right to health to all people, especially patients in need and will also reduce negative social stigma against cannabis users for medical needs.

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