

Legalization of Marijuana Use for Medical in Indonesia in Relation to Law Number 35 of 2009 concerning Narcotics

Legalisasi Penggunaan Ganja untuk Medis di Indonesia dalam Kaitannya dengan Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika

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ABSTRACT

Marijuana is one type of narcotics that is prohibited in Indonesia, as defined in Appendix I of Law Number 35 of 2009 concerning Narcotics. Marijuana is classified as a class I narcotic that cannot be used for medical purposes. Although it is illegal in Indonesia, some people use it as a medical substance to treat their illnesses. This research was conducted using the normative juridical method. According to the research findings, some Indonesians currently believe that marijuana is a dangerous plant that can cause temporary pleasure and addiction. On the other hand, there are also those who argue that cannabis can provide a sense of relaxation, pleasure, and happiness, as well as a flow of inspiration, driving away fatigue, boredom, even depression and stress. Another common misconception is that cannabis is a powerful medicine capable of alleviating various types of pain and slowing the spread of deadly diseases. Given that many other countries have legalized cannabis for medical purposes, the Appendix to Law Number 35 of 2009 must be revised by removing the cannabis plant, all plants of the cannabis genus, and all parts of the plant including seeds, fruit, straw, processed cannabis plants or parts of cannabis plants including cannabis and cannabis resin, and reclassifying them as class II narcotics so that they can be used as medical materials.

Keywords: *Marijuana, Medical, Legalization, Narcotics*

ABSTRAK

Ganja merupakan salah satu jenis narkotika yang dilarang di Indonesia, sebagaimana didefinisikan dalam Lampiran I Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika. Ganja diklasifikasikan sebagai narkotika golongan I yang tidak dapat digunakan untuk tujuan medis. Meskipun ilegal di Indonesia, beberapa orang menggunakannya sebagai bahan medis untuk mengobati penyakit mereka. Penelitian ini dilakukan dengan menggunakan metode yuridis normatif. Menurut temuan penelitian, sebagian masyarakat Indonesia saat ini percaya bahwa ganja adalah tanaman berbahaya yang dapat menyebabkan kenikmatan sementara dan kecanduan. Di sisi lain, ada juga yang berpendapat bahwa ganja dapat memberikan rasa rileks, senang, dan bahagia, serta mengalirkan inspirasi, mengusir penat, bosan, bahkan depresi dan stres. Kesalahpahaman umum lainnya adalah bahwa ganja adalah obat yang ampuh yang mampu meringankan berbagai jenis rasa sakit dan memperlambat penyebaran penyakit mematikan. Mengingat banyak negara lain yang telah melegalkan ganja untuk kepentingan medis, maka Lampiran Undang-Undang Nomor 35 Tahun 2009 harus direvisi dengan menghapus tanaman ganja, semua tanaman genus ganja, dan semua bagian tanaman termasuk biji, buah, jerami, tanaman ganja yang telah diolah atau bagian tanaman ganja termasuk resin ganja dan ganja, serta mengklasifikasikannya kembali sebagai narkotika golongan II agar dapat digunakan sebagai bahan medis.

Kata Kunci: Ganja, Medis, Legalisasi, Narkotika

INTRODUCTION

Decreased or altered consciousness, loss of taste, poisoning, and dependence have existed for thousands of years, humans have had a long relationship with the cannabis plant (Cribb, R., and Kahin, A, 2004). Cannabis has never been discussed apart from various coverage related to developments in regulation, legalization and decriminalization. This resulted in the emergence of social norms regarding cannabis as one of the prohibited plants in the world, as documented in the United Nations Single Convention on Narcotics and Drugs in 1961 (Lingkar Ganja Nusantara, 2004).

The UN Single Convention on Narcotics and Drugs is a norm in the rules of global governance in seeking to classify all types of illegal drugs in public consumption and including cannabis plants (Lingkar Ganja Nusantara, 2004). The aim of this convention is to establish international control of narcotics, as well as to improve methods of control and limit use for medicinal and scientific purposes, and to ensure international cooperation in the control of narcotics. As a country that ratified *the 1961 UN Single Convention on Narcotics and Drugs*, Indonesia included it in national law as an extension. This condition is recorded in RI Law No. 8 of 1976 which has been amended twice to become Narcotics Law No. 22 of 1997 and Narcotics Law No. 35 of 2009 as a form of Indonesia's participation in ratification, and narcotics in RI Law No. 35 of 2009 are categorized based on three different groups based on the level of danger and addictive power (BNN, 2015).

In Law no. 35 of 2009 concerning Narcotics explains in Article 1 (13), that Narcotics Addicts are people who use or abuse Narcotics and are in a state of dependence on Narcotics, both physically and psychologically. Whereas in Article 8 (1) it states, Narcotics Group I are prohibited from being used for the benefit of health services. In Kalimantan there was a case where a civil servant named Fidelis Ari tried to treat his wife's rare spinal cord disease using cannabis extract by planting it in her backyard. This reason was because the local hospital admitted that it could no longer cure the wife's illness. However, due to a direct conflict with the law in Indonesia, Fidelis had to be held in prison while his wife died because she was no longer receiving treatment for cannabis extract from Fidelis (BBC News, 2022).

The debate over the legalization of cannabis has become a topic of discussion in Indonesia, and there are pros and cons; some Indonesians want marijuana to be legalized, while others believe it is dangerous for Indonesia's younger generation. Aceh is one of the provinces that has cannabis-based culinary delights, such as duck curry where the beef broth has a different taste from the usual curry sauce and the duck meat is very tender because it is cooked with cannabis seeds.

In Rumphius' book, he conducted research in Ambon and later found that there were Ambon Herbal medicines which were usually used to treat diseases, (Rumpf, Georg Eberhard, & Beekman, EM, 1981) such as *Lodoicea maldivica* Pers (Sea Coconut) whose fruit was used for anti-inflammatory and antipyretic, while coconut shell is used for cholera because it contains antibiotics, anti-diarrheal. *Drynaria sparsisora* (Desv.) T. Moore (Paku Layang) is used for its roots which are used to increase appetite. Paku Layang can be cooked, and the water can reduce high blood pressure because it is a diuretic. Atung seeds are used to treat dysentery because they contain anti-diarrhea, anti-infection, anti-inflammatory (EJ Buenz, at.al., 2004).

Rumphius said that when he arrived in Ambon he found the use of *Cannabis Indica / Hemp*, cannabis circulating in Ambon was used for recreation and medicine, cannabis that grows in Ambon, is not an endemic plant from Ambon, but the seeds were brought from Java and then planted in Ambon According to Rumphius, cannabis is consumed to treat gonorrhea and hernias. In addition to medicine (*medicamenten*), cannabis leaves are also consumed mixed with tobacco and will produce hallucinations, or in the Malay Ambon language *hayal*, the Indonesian language is *imaginary*. If you see the explanation above, it is necessary to have a criminal law policy to regulate the use of cannabis. Criminal law policy (*penal policy*) departs from Soedarto's opinion, implies: (Sudarto, 1983) (1) Efforts to realize regulations that are better suited to the situation at a time. (2) Policies from the state, through authorized bodies, determine the desired regulations which are expected to be used to express what is contained in society and to achieve the goals aspired to. (3) Starting from this understanding, carrying out criminal law politics means holding elections to achieve the best legislative results in the sense of fulfilling a sense of justice and efficiency. (4) Carrying out criminal law politics can also mean efforts to realize criminal laws and regulations that are in accordance with the rules and situations at a time and for the future.

The objective discussion regarding cannabis began with the emergence of an annual *event* held in the United States, where people held annual rallies which then spread to all parts of the world. *The event* is called the *Global Marijuana March (GMM)* where people hold the importance of cannabis culture, parades, meetings, rallies, concerts, festivals and educational outreach efforts about cannabis. from different cities and from different countries. These annual values have also been adopted by the Indonesian people regarding education about cannabis and gave birth to the *Lingkar Ganja Nusantara (LGN)* movement (Dhira Narayana, 2015). LGN is a form of *counter* to global norms agreed in the *1961 UN Single Convention* on Marijuana. LGN rejected the idea for reasons based on a determination to see the positive side of the cannabis plant and its benefits for the people of Indonesia. LGN also carries out the mission of conducting research related to cannabis plants, conducting education to create awareness in the community and conducting advocacy and hearings with relevant *stakeholders* in fighting for the fulfillment of fair human rights regarding the use of cannabis plants. (Dhira Narayana, 2015)

LGN was born from the annual *Global Marijuana March event* as a form of participating in peaceful demonstrations held in various countries in May 2010, by distributing leaflets containing objective information regarding cannabis at the HI Roundabout, Jakarta. (Dhira Narayana, 2015) This is the focus of LGN to provide knowledge about the cannabis plant to the general public, both regarding its types and utilization. In fighting for and campaigning for the legalization of the use of the cannabis plant for the people in Indonesia, steps have been taken by LGN by carrying out an advocacy strategy to change policies regarding cannabis plants as regulated in Law Number 35 of 2009 concerning Narcotics. Year after year of struggle, LGN, which is based in Jakarta, has bases in almost every province in Indonesia. LGN has carried out activities related to legalization, education and decriminalization efforts. Open dialogue with related policy makers such as BNN (National Narcotics Agency), PKNI (Indonesian Drug Victims Brotherhood) and others. Then took part in holding *the Global Marijuana March* at the HI Roundabout, Jakarta with support from all bases in Indonesia. (Dhira Narayana, 2015)

Since 2011, LGN has discussed the traditional and cultural contexts related to cannabis in various regions in Indonesia, as well as informing the public about legal aspects related to cannabis. Through these efforts, they published a book entitled, *The Tale of the Cannabis Tree: 12,000 Years of Fertilizing Human Civilization*. In early 2015, LGN established its research agency, Yayasan Sativa Nusantara (YSN), and succeeded in obtaining the first license from the government to conduct scientific research on the cannabis plant in accordance with applicable law. (Peter Dantovski, 2013) The Court can understand and have a high sense of empathy for sufferers of certain diseases which "phenomenally" according to the Petitioners can be cured by therapy using Narcotics Category I. However, this is not yet a valid result of the review and scientific research. Therefore, there is no other choice for the Court to encourage the use of this type of Narcotics Group I by previously carrying out scientific studies and research related to the possibility of using this type of Narcotics Group I for health services and/or therapy. Furthermore, the results of scientific study and research can be used as material for consideration for legislators in formulating possible policy changes regarding the use of Narcotics Category I.

Those are the legal considerations of the Court in Decision Number 106/PUU-XVIII/2020 in the case of reviewing Law Number 35 of 2009 concerning Narcotics (Narcotics Law) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution). The application was filed by Dwi Pertiwi (Petitioner I); Santi Warastuti (Petitioner II); Nafiah Murhayanti (Petitioner III); Rumah Cemara Association (Petitioner IV), *Institute for Criminal Justice Reform (ICJR)* (Petitioner V); and the Association of Community Legal Aid Institutions or Community Legal Aid Institutions (LBHM) (Petitioner VI). (Argawati Utami, 2022)

In the verdict, the Constitutional Court (MK) rejected the petition of the Petitioners in its entirety. "The verdict, adjudicating, stated that the petitions of Petitioner V and Petitioner VI could not be accepted. Rejecting the petition of the Petitioners in its entirety," said Chief Justice of the Constitutional Court Anwar Usman accompanied by eight Constitutional Justices in the hearing for pronouncing Decision Number 106/PUU-XVIII/2020 which was held online from the Plenary Session Room of the MK, Wednesday (20/7/2022). The Constitutional Court stated the spirit contained in the General Explanation of the Narcotics Law emphasized that "Certain types of narcotics are substances or medicines that are useful and necessary for the treatment of certain

diseases." However, if it is misused or used not in accordance with medical standards, it can have very detrimental consequences for individuals or society, especially the nation's generation. Moreover, for certain other types of narcotics which by law are still strictly prohibited from using, other than what is expressly permitted, such as the types of Narcotics Group I which are only allowed for the development of science.

In this perspective, continued Daniel, for the Indonesian state, even though there are legal facts that many people suffer from certain diseases with phenomena that may "can" be cured by treatment that utilizes certain types of narcotics, this is not directly proportional to the big consequences that This will arise if there is no readiness, especially related to the legal structure and culture of the community, including the facilities and infrastructure needed are not fully available. Moreover, with regard to the use of this type of Narcotics Group I, it is included in the category of narcotics with a very high dependency impact.

Because each type of narcotic group has a different impact, especially in terms of the level of dependency, in determining the types of narcotics that are assigned to a particular type of narcotics group, a very strict scientific method is needed. So, related to the desire to shift/change the use of narcotics from one group to another, this cannot be done simply. So the question is how to legalize the use of cannabis in Indonesia for medical purposes related to Law Number 35 of 2009 concerning Narcotics.

RESEARCH METHODS

The research method used in this study is normative juridical using a comparative approach *and conceptual approach*. The data sources used in this study are secondary, consisting of: i) primary legal materials, namely binding legal materials such as Law Number 35 of 2009 concerning Narcotics; ii) secondary legal materials, namely legal materials that provide an explanation of primary legal materials, such as doctrines, scientific works of scholars, journals, and other scientific writings; and iii) tertiary legal materials, namely legal materials that provide instructions and explanations of primary legal materials and secondary legal materials, such as general dictionaries, dictionaries of legal terms, encyclopedias, internet data related to research. Data analysis was carried out in a descriptive-qualitative manner. The specification of this research uses analytical descriptive, namely to present data that aims to obtain a complete picture of certain legal events that occur in society to be analyzed based on relevant principles.

RESULTS AND DISCUSSION

Legalization of Cannabis Use in Indonesia for Medical

The policy of Narcotics into medicinal ingredients existed before Indonesia's independence, and it is stated in Law Number 35 of 2009 concerning Narcotics (hereinafter referred to as the Narcotics Law) that in order to improve the health status of Indonesia's human resources in the context of realizing people's welfare, efforts need to be made to increase in the field of medicine and health services, among others by seeking the availability of the types of Narcotics used (Leonie Lokollo, Yonna Beatrix Salamor, Erwin Ubwarin, 2020).

Disapproval if Narcotics are misused for use that has caused dependence, for this reason it is necessary to have a formulation policy that regulates, as stated in the preamble to the Narcotics Law, that Narcotics on the one hand are drugs or ingredients that are useful in the field of medicine or health services and science development knowledge and on the other hand can also cause dependence which is very detrimental if it is misused or used without strict and thorough control and supervision; (Leonie Lokollo, Yonna Beatrix Salamor, Erwin Ubwarin, 2020)

Sudarto said that a crime that is categorized as a crime must be carried out through Legal Politics, namely: *First*, an effort to create good regulations in accordance with the circumstances and situation at a time . (Sudarto, 1983) *Second*, policies from the State through authorized bodies to establish the desired laws and regulations which are expected to be used to express what is contained in society and to achieve what is aspired to. (Sudarto, 1983)

It is mentioned above, that the policy formulation of criminal law seeks to achieve its goals through criminal policy by using penal means (criminal law), which is used as an approach in overcoming this crime. This is the formation of a new law that criminalizes or decriminalizes an act

that can be used as a crime. Decriminalization for an act that used to be a crime is now no longer a crime. (Erwin Ubwarin, 2015)

The formulation policy at the moment in the use of narcotics is regulated in Law Number 35 of 2009 concerning Narcotics dividing narcotics into several groups, namely: (a) Narcotics class I, are narcotics that can only be used for scientific development purposes and are not used in therapy , and has a very high potential for dependence. (b) Narcotics Category II, are narcotics with medicinal properties used as a last resort and can be used as therapy and/or for the purpose of developing science and have a very high potential for dependence. (c) Narcotics Group III, are narcotics with medicinal properties and are widely used in therapy and/or for the purpose of scientific development and have a mild potential to cause dependence.

In the Appendix to Regulation of the Minister of Health Number 50 of 2018 concerning Changes in the Classification of Narcotics it states that: "*Cannabis plants, all plants of the genus Cannabis and all parts of plants including seeds, fruit, straw, processed cannabis plants or parts of cannabis plants including cannabis resin and hashish*".

Leonie Lokollo, Yonna Beatrix Salamor, Erwin Ubwarin, 2020 stated that cannabis is included in Narcotics Group I, which means that cannabis cannot be used as medicine or therapy in treating patients who need it. As for some of the diseases that in research have been shown to be cured by using cannabis, namely:

Glaucoma

Glaucoma is damage to the optic nerve due to increased pressure on the eyeball. This increased eye pressure occurs due to interference with the eye fluid flow system. A person suffering from this condition can experience symptoms such as impaired vision, pain in the eyes, and headaches. *The American Glaucoma Society and the Canadian Ophthalmological Society* released articles in 2010 that there was efficacy of medical cannabis for the treatment of glaucoma. Medical cannabis reduces eye pressure (IOP) and protects the retinal nerves from being damaged by glaucoma. (Henry Jampel, 2010) Marijuana contains the active substance *tetrahydrocannabinol* (THC). This *THC content* helps to reduce pressure and protect the retina from damage caused by glaucoma. If done properly, cannabis can treat glaucoma. (Ileana Tomida, A. Azuara-Blanco, H. House, M. Flint, RG Pertwee, and PJ Robson, 2006) But in Indonesia it is impossible for doctors to recommend buying cannabis.

Alzheimer's Disease

Alzheimer's Disease , namely memory loss, we often see in parents who are entering their 65th year of age, our parents are known for a disease, the disease is called Alzheimer's, this is a brain disease that results in decreased memory, ability to think and speak. *VA Campbell and A. Gowran* in their research found that marijuana has a compound called *cannabinoid* or *THC* , *cannabinoids* are believed to be able to help treat memory loss due to human age. The use of cannabis helps patients to sleep well, increases appetite. (V. A. Campbell and A. Gowran, 2007)

Fibromyalgia

Fibromyalgia is a rheumatic disorder, such as arthritis. It is characterized by body aches, heightened and painful response to pressure, insomnia, morning muscle stiffness, and fatigue. A number of factors are involved, including disorders of the nervous and endocrine systems, genetic factors. (Laurence A. Bradley, 2009) *Cannabinoids* make patients suffering from Fibromyalgia experience less pain and make it easier for patients who have trouble sleeping.

Indonesia is considered a narcotics emergency with the first facts that narcotics crime consists of groups of abusers as demand and groups of dealers as supply, indiscriminately the two groups are thrown into custody and end up in prison, and the number or prevalence of Indonesian abusers is increasing, the trend is increasing from year to year, the number This increase in abusers resulted in a bustling narcotics business, so that the death toll from narcotics began to increase every year, and the need for prison construction increased and the majority are currently inhabited by narcotics convicts. However, the community is not passionate about healing or rehabilitating families who suffer from drug addiction, because rehabilitation centers do not develop in line with the increasing number of abusers, so that society misguidedly views abusers. (Iskandar, Anang, 2019)

In Article 4 points a and b of Law Number 35 of 2009 concerning Narcotics it is stated that the purpose of the Narcotics Law is to guarantee the availability of Narcotics for the benefit of health services and/or science and technology development and to prevent, protect and save the

Indonesian nation from Narcotics abuse. Furthermore, in the law, narcotics are classified into 3 groups, namely group I, group II, and group III according to their level. As for cannabis, as in Appendix I point 8 of Law Number 35 of 2009 concerning Narcotics, it is included in group I, namely cannabis plants, all plants of the cannabis genus and all parts of plants including seeds, fruit, straw, processed cannabis plants or plant parts. Cannabis includes cannabis resin and hashish.

As a class I narcotic, cannabis is prohibited for use for medical purposes. However, for class II and class III narcotics in limited quantities can be given to patients with certain medical indications who need narcotics as a form of treatment therapy. Drug administration may only use a doctor's prescription and in accordance with statutory provisions. Until now, as a class I narcotic, cannabis and its derivatives can only be used for science and technology and only carried out by certain pharmaceutical wholesalers to certain scientific institutions.

However, even though it has been regulated as a class of narcotics that are prohibited for medical use, several times it is known that Indonesian people illegally use cannabis and its derivatives as medicine. In 2017, Fidelis Arie Sudewarto, was sentenced to 8 (eight) months in prison and a fine of IDR 1,000,000,000.00 subsidiary of 1 (one) month in prison for growing 39 cannabis stems and using the extract for the treatment of his wife who suffers from *Syringomyelia*. He did this because he was looking for international references where based on these references cannabis extract can be used to treat his wife's illness. Another case is the judicial review of Law Number 35 of 2009 concerning Narcotics through case number 106/PUU-XVIII/20201 filed by Dwi Pertiwi (Petitioner I), Santi Warastuti (Petitioner II), Nafiah Murhayanti (Petitioner III), Association Rumah Cemara represented by the Chair and Secretary of the Governing Body (Petitioner IV), *the Institute for Criminal Justice Reform* represented by the Chair and Secretary of the Governing Body (Petitioner V), and the Community Legal Aid Institute represented by the Chair of the Governing Council (Petitioner VI).

The request for judicial review was filed because Petitioner I had used cannabis therapy for his child who had *cerebral palsy*. While in Australia in 2016, Petitioner I used *Cannabis Oil* for the treatment of his child and showed good progress. Meanwhile, Petitioners II and III intend to use this therapy. So in this case a judicial review is requested against Article 6 and Article 8 of Law Number 35 of 2009 regarding narcotics class I. Indonesia is one of the countries that has not legalized cannabis. On the other hand, there are several countries that have legalized cannabis for medical needs, including: Chile, Canada, Italy, the Netherlands, Turkey, Thailand, the United States, Sri Lanka, South Korea, and several other countries. This legalization policy has an impact on changes in statutory provisions with adjustments according to conditions in these countries. The increasing number of countries legalizing cannabis is due to WHO recommendations to reclassify cannabis and its derivatives. Marijuana, which was originally included in the category of the most dangerous drugs, was later reclassified as a medical drug. (Woro, I., Dan, U, 2022)

On the other hand, there is a Decree of the Minister of Agriculture of the Republic of Indonesia Number. 104/KPTS/HK.140/M/2/2020 concerning Ministry of Agriculture Fostered Commodities which was finally revoked in the same year, where in point III regarding medicinal plant commodities, cannabis (*cannabis sativa*) is at number 12 which means it is a medicinal plant that is under the auspices of the Directorate General of Horticulture, Ministry of Agriculture. One of the bases for issuing this decision was Article 67 paragraph (1) of Law Number 13 of 2020 concerning Horticulture which states that the cultivation of horticultural crops which is detrimental to public health can be carried out for the benefit of health services and/or science unless otherwise stipulated by law. The Minister of Agriculture's decision became a polemic, because until now Law Number 35 of 2009 still places cannabis as a class I narcotic. The process of legalizing cannabis does not just set policies, but also must pay attention to various sectors in a comprehensive manner. As a sovereign country, the state has the authority to regulate internal and external matters. The internal aspect is to regulate everything that happens within its territorial boundaries and the external aspect is to deal with other countries or members of the international community, or regulate something outside the country's borders as long as it is related to the interests of the country. Widagdo, Setyo, et al. (2019).

There are several states in America that have legalized cannabis for medical purposes with conditions where it is permissible to use cannabis, including: (Luh Nyoman Alit Aryani. 2019) . a) Arizona, Arizona in 2010 has legalized cannabis as a medical plant and some conditions are allowed to use cannabis plants; *Cancer, glaucoma, HIV/AIDS, hepatitis C, ALS, Crohn's disease, Alzheimer's*

disease, cachexia, severe and chronic pain, severe nausea, seizures (including epilepsy), severe or persistent muscle spasms; b) California, California in 1996 has legalized cannabis as a medical plant and some conditions are allowed to use cannabis plants; AIDS, anorexia, arthritis, cachexia, cancer, chronic pain, glaucoma, migraine, persistent muscle spasms (including spasms associated with MS), seizures (including seizures associated with epilepsy), severe nausea, other chronic or persistent medical symptoms; c) New York, New York in 2014 legalized cannabis as a medical plant and some conditions are allowed to use cannabis plants; Cancer, HIV/AIDS, ALS, Parkinson's disease, MS, spinal cord damage causing spasticity, epilepsy, IBD, neuropathies, Huntington's disease The Department of Health commissioner has the discretion to add or delete conditions and must decide whether to add Alzheimer's disease, muscular dystrophy, dystonia, PTSD, and rheumatoid arthritis within 18 mo of the law becoming effective; d) Washington, Washington in 1998 has legalized cannabis as a medical plant and some conditions are allowed to use cannabis plants; Cachexia, cancer, HIV/AIDS, epilepsy, glaucoma, intractable pain (defined as pain unreliable by standard treatment or medications), chronic renal failure, MS Crohn's disease, hepatitis C with debilitating nausea or intractable pain, or diseases including anorexia that result in nausea, vomiting, wasting, loss of appetite, cramping, seizures, muscle spasms, or spasticity when those conditions are unreliable by standard treatments or medications; e) Nevada, Nevada in 2000 has legalized cannabis as a medical plant and some conditions are allowed to use cannabis plants; AIDS, cancer, glaucoma, and any medical condition or treatment for a medical condition that produces cachexia, persistent muscle spasms or seizures, severe nausea or pain, PTSD; other conditions are subject to approval by the health division of the state department of human resources.

There are a total of 22 states but the regulations in the 22 states are also unequal in terms of the number of types of diseases that cannabis can be used as a treatment. For example in Arizona, which legalized marijuana in 2010, the limit for cannabis use is only 2.5 ounces while in Nevada the use limit is only 1 ounce, in contrast to Washington the limit for medical marijuana use is 24 ounces. (Luh Nyoman Alit Aryani. 2019) The state of Arizona in America, for example, has legalized cannabis as a medicinal plant which provides great benefits for treating several diseases, but supervision regarding this use is also an integral part, Arizona uses cards to patients recommended by doctors to use medical marijuana, so when he went to the dispensary he showed. (Luh Nyoman Alit Aryani. 2019)

By looking at the results of the research and application of the regulation of medical cannabis above, the authors come to an initial conclusion that it is necessary to formulate a criminal law policy to revise Law Number 35 of 2009 concerning Narcotics. The Criminal Law Formulation Policy does not only talk about current criminal law policies but also the future. (Luh Nyoman Alit Aryani. 2019)

Legal reform efforts in Indonesia which have started since the birth of the 1945 Law cannot be separated from the foundation and at the same time the goals to be achieved as well as from the foundations and at the same time the goals to be achieved as also formulated in the Preamble to the 1945 Law. What was outlined in the preamble to the 1945 Constitution was briefly " *to protect the entire Indonesian nation and to advance public welfare based on Pancasila* ". This is the general policy line that forms the basis and at the same time the goal of legal politics in Indonesia. This is also the basis and goal of every legal reform effort, including reforms in the field of criminal law and legal countermeasures policies in Indonesia. (Barda Nawawi Arief, 2010)

The need for renewal of criminal law is very important to implement, criminal law must contain legal rules that bind actions that meet certain requirements to a consequence in the form of a crime. (Teguh Sulista and Aria Zunetti, 2022) Article 37 of Law Number 35 of 2009 stipulates that only Narcotics Groups II and III can be used as medicinal ingredients. Furthermore, Article 53 of Law Number 35 of 2009 regulates the issue of the use of Narcotics II and III in limited quantities as medicinal substances. Article 117 Law Number 35 of 2009 already regulates possessing, storing, controlling, or providing Narcotics Group II is punishable by imprisonment, while Article 118 regulates producing, importing, exporting, or distributing Narcotics Group II is punishable. Article 122 to Article 126 of Law Number 35 of 2009 regulates criminal penalties for Narcotics Category III.

According to the Author of the Attachment to Law Number 35 of 2009, it must be revised by excluding the cannabis plant, all plants of the cannabis *genus* and all parts of the plant including seeds, fruit, straw, processed cannabis plants or cannabis plant parts including cannabis resin and hashish, moved to narcotics class II so that they can be used as medical materials.

CONCLUSION

Based on the description and analysis of the two problems in this study: *First*, there must be a criminal law formulation policy that transfers cannabis from Group I to Group II or Group III. Because cannabis cannot be used for medical purposes if it is in Group I, there must be a revision of Law Number 35 of 2009 which states that cannabis cannot be used as a medical substance. *Second*, the Appendix to Law Number 35 of 2009 must be revised by removing the cannabis plant, all plants from the cannabis genus, and all parts of the plant including seeds, fruit, straw, processed cannabis plants or parts of the cannabis plant including cannabis sap and hasis, and reclassifies it as a class II narcotic that can be used as a medicinal substance.

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