

Criminal Law Policy in Tackling Personal Possession of Marijuana for Medicine

Fifink Praiseda Alviolita^{1*}, Nila Arzaqi²

¹ Faculty of Law, Universitas Widya Mataram, Yogyakarta, Indonesia.

² Faculty of Law, Universitas Safin Pati, Pati, Indonesia.

 : fifinkpraiseda@gmail.com
Corresponding Author*



Abstract

The problem of personal possession of marijuana for medical purposes because according to the mandate of the constitution the right to life is guaranteed by the 1945 Constitution. The purpose of this study is to identify problems from the formulation aspect of the Narcotics Law to determine the appropriate criminal law policy to overcome these legal issues. This study uses a type of normative juridical research with a qualitative approach. The results of the study show that the Narcotics Law has a vagueness of norms that results in a person who has marijuana personally for treatment or therapy can be criminalized, even though if you look at the formulation of the Narcotics Law does not really prohibit it as long as it is in accordance with the results of research so that its use can be scientifically proven. In addition to the incessant eradication of narcotics trafficking and abuse, the government needs to take policies by revising the Narcotics Law. Efforts that can be made by decriminalizing personal possession of marijuana as a treatment does not mean that it will be impossible in the future, coupled with the regulation and supervision of marijuana trafficking, will open up space for the courts to focus on dealing with more serious narcotics crimes. This means that the government must be present to refocus the function of legislation and determine future regulations to regulate the maximum limit on the amount of psychotropic substances that can be legally owned or not so that they can distinguish the perpetrators of criminal acts whether they are categorized as owners, users, storers or dealers and the certainty of psychotropic abuse in order to achieve certainty, justice and usefulness.

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INTRODUCTION

The values of Pancasila contain several basic values in it such as the values of God, humanity, unity, populism and justice. These values must then be internalized in the daily life of every Indonesian citizen, and used as a guideline for life to move towards a just, prosperous and sovereign Indonesia. Likewise, the constitution, namely the 1945 Constitution of the Republic of Indonesia which makes Pancasila as its basic foundation. The articles contained in it contain legal norms as an order of law in Indonesia that must be obeyed.¹

One of the things listed is the guarantee of the human rights of Indonesian citizens which reads: "Everyone has the right to live and has the right to defend his life and livelihood." This article guarantees that everyone has the right to life, both to live and maintain their life, as stipulated in Article 28A of the 1945 Constitution of the Republic of Indonesia. For example,

¹ Pusdatin, Begini Hubungan Pancasila dan UUD 1945, Badan Pembinaan Ideologi Pancasila, <https://bpip.go.id/artikel/begini-hubungan-pancasila-dan-uud-1945>, 23 Mei 2025

as done by a person named Fidelis Arie Sudewarto for the possession of marijuana for the treatment of his wife who had *Syringomyelia* in 2017,² In addition, in 2020 Santi Warastuti, the mother of Pika Sasi Kirana, one of the children with *cerebral palsy* who needed cannabis oil therapy. Santi is a mother who lives in Australia but was forced to stop cannabis therapy for her child's medical needs because Indonesian rules prohibit it.³

Both the cases of Fidelis and Santi Warastuti led to the deaths of his wife and child. The two examples of cases above are motivated by the idea that basically marijuana is a type of narcotics, which is a substance that is very useful and necessary for the treatment of certain types of diseases. This has actually also been stated in Law Number 35 of 2009 concerning Narcotics (hereinafter referred to as the Narcotics Law). The Narcotics Law as a product of national law refers to the international legal apparatus that also regulates the control and supervision of the production and use of psychotropic drugs, as well as the eradication of their abuse by limiting their use only for medical and scientific purposes.⁴

On the other hand, the international community realizes that the problem of drug abuse is a complex problem that needs to be overcome, both preventive and repressive measures are needed as an effort to counter and eradicate drug abuse as a whole.⁵ In Indonesia itself, the problem regarding narcotics, especially in this case, is the legalization of personal marijuana possession as a treatment to face steep roads and is still a pro and cons. The National Narcotics Agency as a government agency that handles drug problems has become an institution that strongly rejects the discourse on marijuana legalization policies. One of the reasons for this is the economic reason that is considered wrong⁶ So that the use of this cannabis plant as an alternative treatment is feared to have a worse impact on society. However, not a few people also support the legalization of marijuana by encouraging the re-regulation of marijuana as a plant that is beneficial for health. One of them is the movement carried out by the Nusantara Ganja Circle which fights for the regulation of the legalization of medical marijuana.⁷

The Ministry of Health itself also seems to have not made the example of the case that occurred as an urge to immediately conduct research studies, even though there have been many proposals and other countries that have legalized (with certain conditions) to the policy of decriminalizing the possession of marijuana for medical purposes. This shows that Indonesia is very important to evaluate the policy of legalizing marijuana for medicine, lest the law be judged as a double-edged sword that is sharp downwards but blunt upwards. Therefore, with the example of the case above, a criminal law policy is needed to overcome the possession of personal marijuana for medical purposes in the community, in addition to focusing on controlling and eradicating narcotics abuse so that later it can achieve the legal goals itself, namely certainty, justice and usefulness.

² Institute For Criminal Justice System, Kasus Fidelis: ICJR Sampaikan Pendapat Hukum kepada PN Sanggau, <https://icjr.or.id/kasus-fidelis-icjr-sampaikan-pendapat-hukum-kepada-pn-sanggau/>, 26 Mei 2025

³ Legalisasi Ganja Medis di RI: Harapan Keluarga Pasien dan UU Narkotika" <https://www.cnnindonesia.com/nasional/20250417064724-20-1219639/legalisasi-ganja-medis-di-ri-harapan-keluarga-pasien-dan-uu-narkotika>.

⁴ Siswanto Sunarso, *Penegakan Hukum Psikotropika dalam Kajian Sosiologi Hukum*, (Jakarta: Raja Grafindo, 2004), p. 1

⁵ Sumarmo Ma'sum, *Penanggulangan Bahaya Narkotika dan Ketergantungan Obat*, (Haji Masagung, 1987), p. 131

⁶ Jennifer Claudia dan Rasji, "Analisis Pro Dan Kontra Legalisasi Ganja Medis Di Indonesia: Tinjauan Terhadap Kandungan Dan Implikasinya", *Jurnal Kertha Semaya* 12, no. 4 (2024), p. 705-718

⁷ Mohammad Darry Abbiyyu, "Strategi Gerakan Lingkar Ganja Nusantara Dalam Memperjuangkan Legalisasi Ganja di Indonesia", *Jurnal Politik Muda* 5, no. 3 (2016): 300 - 310

METHODS OF THE RESEARCH

This study uses a type of normative juridical research with a qualitative approach. The data obtained is from a literature study on the regulation of the legalization of personal marijuana possession for treatment obtained from various primary legal sources such as laws and regulations, especially the Narcotics Law, then supported by a number of secondary legal materials in the form of books, online scientific journals and tertiary legal material sources in the form of dictionaries, internet and encyclopedias related to the issue that the author is researching. Then the results of the analysis and discussion are further described to make it easier to draw several conclusions and policy recommendations.

RESULTS AND DISCUSSION

A. Regulation of Personal Marijuana Possession for Treatment Perspective Law Number 35 of 2009 concerning Narcotics

The Constitution is the basis of thought that inspires the legal arrangement in Indonesia. As is the case with the Narcotics Law which when referring to its considerations reads: "... that in order to realize a prosperous, just and prosperous Indonesian society that is equally material and spiritual based on Pancasila and the 1945 Constitution of the Republic of Indonesia, the quality of Indonesian human resources as one of the capital of national development needs to be maintained and improved continuously, including the degree of health... Based on the above quote from the Narcotics Law (which is bolded by the author), it is emphasized that the Narcotics Law guides Pancasila and the 1945 Constitution of the Republic of Indonesia which guarantees the human rights of its citizens to get health services by striving to advance science as guaranteed in Article 28H of the 1945 Constitution of the Republic of Indonesia.

Especially for matters that advance science and technology and in terms of medical services, as stated in Article 7 of the Narcotics Law which states that "Narcotics can only be used for the benefit of health services and/or the development of science and technology". According to this article, the use of narcotics is allowed, but what becomes biased is if we look at the regulation of Article 8 of the Narcotics Law which says that Class I narcotics (which includes marijuana and its processed substances) are prohibited from being used for the purpose of health services. Furthermore, however, in limited quantities, Class I narcotics can be used for the purpose of scientific and technological development and for diagnostic reagents, as well as laboratory reagents after obtaining the approval of the Minister on the recommendation of the Head of the Food and Drug Supervisory Agency, for Article 7 and Article 8 this is a contradiction, in addition to Article 8 there is a limited use of marijuana, This will also be very subjective for the limited use of marijuana,⁸ because what determines is the investigator whether it is a type of narcotics or not. In the study of the above arrangements, it can be seen that marijuana also has a positive effect, this makes the government through the Narcotics Law in addition to classifying marijuana in Group I also regulates the possession of marijuana in terms of its use as a treatment in Article 53 paragraph (3) of the Narcotics Law which states that: "The patient as referred to in paragraph (2) must have valid evidence that the narcotics possessed, stored, and/or brought for use obtained lawfully in accordance with the provisions of laws and regulations." Another problem is that the law does not accommodate the use of marijuana

⁸ <https://infokes.dinus.ac.id/2020/02/07/kasus-fidelis-legalitas-ganja-bagi-kebutuhan-medis/>, 25 Mei 2025

for health or treatment (therapy) with personal marijuana possession. Departing from the case that occurred in 2024,⁹ Previous the applicant postulates the latest developments of the *Commission on Narcotic Drugs, Reconvened sixty-third session, in Vienna on 2 – 4 December 2020* based on document E/CN.7/2020/CRP.19, which in essence 100 explains that *the World Health Organization (WHO)* as a world health agency that is part of the United Nations, recommends the removal of cannabis and cannabis resin from Schedule IV of the 1961 Narcotics Convention (*to delete cannabis and cannabis resin from Schedule IV of the 1961 Convention*), but Indonesia does not seem to be moving to legalize marijuana as a medicine with the consideration that Article 6 paragraph (1) letter a of the Narcotics Law is intended to be a unit and is used in considering the constitutionality of the norms of Article 8 paragraph (1). Regarding the type of Class I Narcotics has been emphasized in the Explanation of Article 6 paragraph (1) letter a can only be used for the purpose of scientific development and is not used in therapy, and has a very high potential to cause dependence.

Therefore, from the restriction of the imperative, it can be simply understood that Class I Narcotics is a type of narcotics that has the most serious impact compared to other types of narcotics. Thus, in terms of the use of Class I Narcotics, it cannot be separated from the fulfillment of these very strict conditions, especially if there will be a change in its use to other (different) uses that have the potential to cause human lives, if scientific studies and research are not carried out first.¹⁰ Seeing the problem in the positive law on narcotics, the use of medical marijuana is not completely prohibited. However, this is an opportunity where the government through the law should also regulate the maximum limit of the amount of psychotropic drugs that are stored, used, and possessed illegally so that it can distinguish the perpetrators of criminal acts whether they are categorized as owners, users, storers or dealers and the certainty of the abuse of psychotropic drugs itself, in this case marijuana which is included in Group I in the Narcotics Law. Especially in 2025, the governance of narcotics eradication and the legalization of Marijuana is a *concern* of the President (Prabowo Subianto).¹¹ The Constitutional Court through its 2020 decision has also mandated the government to immediately conduct a study on this matter. The results of the research are expected to be a reference for formulating policies. So that the issue is answered rationally and scientifically. Of course, with clear and strict regulations so that the legal goals of certainty, justice and legalization benefits can be achieved through the revision of Law Number 35 of 2009 concerning Narcotics in the future.

B. Criminal Law Policy in Personal Possession of Marijuana for Medicinal Products

Personal possession of marijuana for medicinal purposes is currently classified as an act of narcotics abuse which according to positive law in Indonesia is classified as a criminal offense. This is regulated separately in the field of special criminal law, namely with the existence of the Narcotics Law. Based on the results of the analysis above, problems regarding the formulation stage (legislation) will affect the success of law enforcement of narcotics crimes. The case of personal possession of marijuana for treatment and therapy is still a pro and con in Indonesia today. This does not mean that it is a legal issue that cannot be overcome, with mainstream issues and many cases that ensnare owners due to personal marijuana possession intended for treatment, the state needs to be present to find the best solution in the form of taking the right criminal law policy. As known in criminal law as

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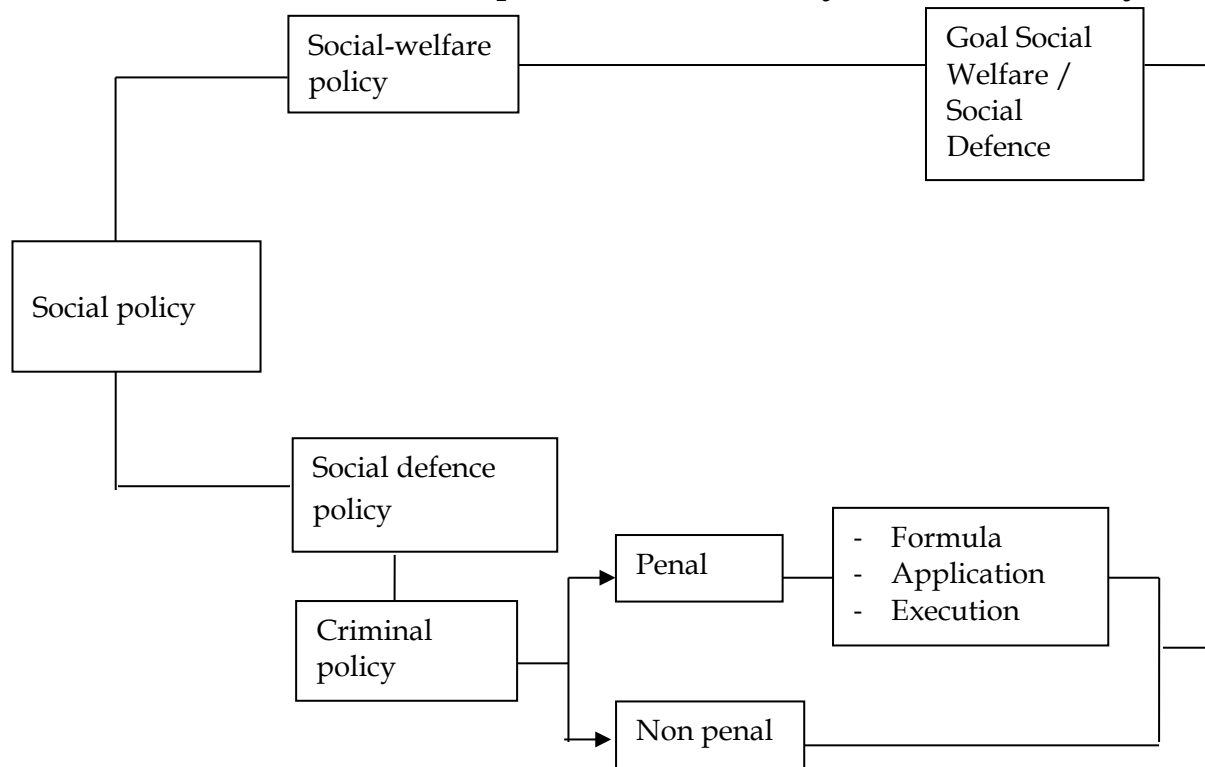
https://www.mkri.id/public/content/persidangan/putusan/putusan_mkri_9695_1710906677.pdf

¹⁰ *Ibid.*

¹¹ "Menteri HAM dan Kepala BNN Bahas Legalisasi Ganja hingga Kratom", diakses dari <https://news.detik.com/berita/d-7870176/menteri-ham-dan-kepala-bnn-bahas-legalisasi-ganja-hingga-kratom>

criminal policy, the following author presents a chart of the relationship between *penal policy* and *criminal policy*.

Chart 1. The Relationship Between *Penal Policy* and *Criminal Policy*



Explanation of Chart 1 that The relationship between criminal policy and social policy¹² is a criminal policy that cannot be separated from the broadest policy, namely social policy which consists of policies or efforts to achieve social *welfare* (*social welfare policy*) and policies or efforts to protect the community (*social defence policy*). Criminal policy is an effort or policy to prevent and control crime. Therefore, crime prevention policies use criminal law (penal) means which go through the stages of formulation (legislative policy), application (judicial/judicial policy) and execution (executive/administrative policy), especially at the application stage, should pay attention to and lead to the achievement of the goals of the social policy, in the form of social welfare and protection of the immaterial community. This aspect is very important, especially the values of trust, truth, honesty and justice. So that policies whose functionalization or operation starts from the formulation stage, not only the duties of law enforcement officials who play an important role but the duties of law enforcement officials as well. In fact, legislative policy is the most strategic stage of *penal policy*. This is because errors/weaknesses in legislative policies are problems at the application stage.

In line with this, if you look at the relationship between *Penal Policy* and *Criminal Policy* according to Marc Ancel, *Penal policy* is a science as well as an art that ultimately has a practical purpose to allow positive legal regulations to be formulated in a better way to provide guidelines not only to lawmakers, but also to the courts that apply the law and also to the courts that apply the law and also to the the organizers or executors of court decisions. In order to prevent and control crime, it must support the goals mentioned above, an integral approach is carried out where there is a balance between penal and non-penal

¹² Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan*, (Jakarta: Kencana Prenadamedia Group, 2010).

which is part of *criminal policy*, from the point of view of criminal politics, the most strategic policy through non-penal means because it is more preventive. Meanwhile, penalties are more fragmentary, repressive and individualistic. So basically *penal policy* is part of criminal politics.¹³

Criminal politics itself is a concept initiated to protect the community. According to Sudarto, the definition of criminal politics is divided into narrow and broad meanings, namely:¹⁴ 1) In a narrow sense, the entire principle and method that is the basis for the reaction to the violation of the law in the form of judgment; 2) In a broad sense, the entire function of law enforcement, including the way the judiciary and law enforcement work; the way the judiciary and the police work; 3) In the broadest sense, the overall policy carried out through laws and official bodies aimed at enforcing the central norms of society.

The study of the penal aspect starts from the normative study stage (formulation), in this case there are problems in the provisions of laws and regulations related to narcotics (the Narcotics Law) (which the author has described above), especially regarding the possession of personal marijuana for medicinal purposes (*in abstracto*). Then the next stage is the application stage through a series of integrated criminal justice systems where the results of the analysis will later be a reference for lawmakers, namely in the last stage of the execution stage. Given that criminal policy is part of social policy, it is necessary to "art" to create better criminal regulations in the future.

Based on the results of the study obtained, the Narcotics Law itself does not really prohibit the personal possession of marijuana, but with the problem of legal substance in the articles described by the author above, there is a vagueness of meaning and a conflict of norms that made the judge sentence Fidelis to prison, even though Fidelis stated that he learned to self-produce marijuana to save his wife, not to be circulated or abused. He uses it only for medical needs.¹⁵ The same thing also happened in the case of Santi Warastuti, the mother of Pika Sasi Kirana. In the Narcotics Law, especially regarding the application of criminal sanctions, the role of law enforcement officials is in realizing legal rules so that they can be realized according to the rules and norms that live in society. It was mentioned above that the most strategic stage is the formulation stage, so the Narcotics Law should be reformulated through the revision of the Narcotics Law, so that it can be a guideline for law enforcement officials to realize the same goals as lawmakers in cases of personal marijuana possession for medicine.

The consideration is by looking at various previous studies, marijuana is classified as a natural narcotic which has a positive effect on overcoming nausea in the use of anti-cancer drugs; lowering intra-ocular pressure in *glaucoma patients* and relaxing muscles. However, these positive effects must be paid for by mental disorders, namely the disruption of normal activities,¹⁶ In a study conducted by *the Institute of Medicine* (1982) conducted research on the potential of cannabis drugs for medical use. In this study, marijuana and its derivatives were tested to determine glaucoma, asthma, anxiety, depression, alcoholic behavior, syndromes that arise in a person due to no longer consuming opium (*opiatwithdrawal*),

¹³ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana (Perkembangan Penyusunan Konsep KUHP Baru)*, (Jakarta: Prenadamedia Group, 2016).

¹⁴ Tim Hukumonline, Politik Kriminal dan Hubungannya dengan Politik Hukum Pidana, <https://www.hukumonline.com/berita/a/politik-kriminal-dan-politik-hukum-pidana-lt6258f7d33c289/>, 2025

¹⁵ <https://putusan.mahkamahagung.go.id/putusan/54d10901a7a6f1d6d050396416f81cc2>

¹⁶ Hari Sasangka, *Narkotika dan Psikotropika Dalam Hukum Pidana Untuk Mahasiswa dan Praktisi Serta Penyuluh Masalah Narkoba*, (Bandung: Mandar Maju, 2003), p. 53

tumors, seizures, appetite disorders, and vomiting. The results of the study found that marijuana and its derivatives are quite promising in curing some of these health disorders.¹⁷ Another medical benefit that has been widely recognized and validated by several other scientific studies is the content of *Cannabidiol* (CBD)¹⁸ in cannabis plants for the treatment of epilepsy patients. Studies show that patients with Dravet syndrome who receive CBD experience a decrease in the frequency of seizures. As needed by Santi Warastuti in the case of her child's treatment.¹⁹ Based on a high sense of empathy for quoting the constitutional court's considerations, namely: "... to encourage the use of Class I Narcotics by previously conducting scientific studies and research related to the possibility of using Class I Narcotics for health services and/or therapy. Furthermore, the results of these scientific studies and research can be used as a consideration for lawmakers in formulating possible policy changes regarding the use of Class I narcotics."²⁰ Looking at the Constitutional Court judge's consideration above, this means that this does not rule out the possibility of providing opportunities for the Indonesian government to conduct a study on the legalization of marijuana which is currently more focused on medical use in the future.

Efforts that can be made by decriminalizing personal possession of marijuana as a treatment and this does not mean that it will be impossible in the future, coupled with the regulation and supervision of marijuana circulation, will open up space for the courts to focus on dealing with more serious narcotics crimes. Lawmakers with all parties and *stakeholders* such as the Ministry of Law and Human Rights, the National Narcotics Agency, the Ministry of Health and the Food and Drug Supervisory Agency need to be involved in terms of strict supervision and licensing to provide solutions for personal possession of Cannabis that is useful as a treatment by determining the amount and its designation as long as it is not for purposes other than medicine. The court, for example, can also focus on the circulation of illicit marijuana which is generally carried out in larger quantities and results in large losses for the state, both economically and socially. Indeed, the legalization of marijuana is something that is seen *as anti-mainstream*, especially in Indonesia. However, this has been done by many other countries. As a matter of consideration, the author highlights by making comparisons in several countries such as: 1) Chile, Consuming marijuana in small amounts is allowed as long as it is done indoors and alone;²¹ 2) California, more toward decriminalization, decriminalization in 2010 reduced arrests for possession of misdemeanors by 86% in just 12 months;²² 3) Canada, addressing the use of medical marijuana, or the use of marijuana as directed by health care practitioners, has been legal in Canada for more than fifteen years as directed by a provincial court decision in 2001 that lifted a blanket ban on marijuana on the basis that it deprived a person of a constitutional right to make decisions regarding their health care interventions.²³

¹⁷ <https://theconversation.com/banyak-negara-sudah-legalkan-ganja-medis-saatnya-indonesia-mengubah-aturan-224163>,

¹⁸ Marijuana and Health, Report of a study by a committee of the Institute of Medicine Division of Health Sciences Policy, National Academy Press, Washington DC, 1982 <https://files.eric.ed.gov/fulltext/ED218568.pdf>

¹⁹ <https://pmc.ncbi.nlm.nih.gov/articles/PMC5767492/> dalam <https://theconversation.com/banyak-negara-sudah-legalkan-ganja-medis-saatnya-indonesia-mengubah-aturan-224163>

²⁰ PUTUSAN Mahkamah Konstitusi Nomor 106/PUU-XVIII/2020, https://www.mkri.id/public/content/persidangan/putusan/putusan_mkri_8588_1658299840.pdf

²¹ Lingkar Ganja Indonesia, Negara-Negara di Dunia yang Sudah Melegalkan Ganja, diakses dari <http://www.lgn.or.id/negara-negara-di-dunia-yang-sudah-melegalkan-ganja/>, pada 22 Mei 2025

²² Stanford University, Criminalization and Decriminalization of Marijuana Possession in Non-Legalization States, Department of Psychology, Stanford Network on Addiction Policy-Bridging Science and Public Policy, diakses dari <https://addictionpolicy.stanford.edu/criminalization-and-decriminalization-marijuana-possession-non-legalization-states>, 23 Mei 2025

²³ Chelsea Cox, "The Canadian Cannabis Act legalizes and Regulates Recreational Cannabis Use in 2018", *Health Policy* 122, no. 3 (2018): 205-209, <https://doi.org/10.1016/j.healthpol.2018.01.009>.

Looking at the formulation of the articles listed in the Narcotics Law, it appears that the law to determine the categorization of criminal sanctions is more determined by the types of psychotropic classifications that are violated. In addition, for personal ownership intended for self-treatment, it must go through several stages of licensing and the knowledge of the doctor, in the context of scientific theory, the forms of criminal acts in the form of narcotics abuse, one of which is if narcotics are used proportionately, meaning in accordance with the principle of use, both for health and for the purposes of scientific research, then it cannot be categorized as a criminal act of narcotics. But if used for other purposes, the act can be categorized as a criminal act.²⁴ This will be a momentum for justice seekers in this country who are faced with the problem of a person's life and regulations in accordance with the progressive legal paradigm aspired to by Satjipto Rahardjo. Legal actors or actors must dare to interpret the legal text by freeing themselves from legal logic alone, making leaps, so that problems in a dynamically moving society can be answered and solved with a "static legal container".²⁵ When talking about law, it is framed by social values and legal values that are created, one of the goals is to achieve justice in society. Talking about the goal of justice in an effort to achieve it, we must pay attention to policy-making so that it is in accordance with the legal goal of making many people happy, such as the teachings of utilitarianism by Jeremy Bentham "*the greatest good to the greatest number*" (1748 – 1832).²⁶ This is what is meant by the *goal* in the criminal policy.

According to G. Peter Hoefnagels, "*Criminal policy as a science of policy is part of a larger policy: the law enforcement policy*".²⁷ As stated by Barda Nawawi Arief, the criminalization policy or criminal policy is a policy in determining an act that was originally not a criminal act (not convicted) into a criminal act (a punishable act). Criminal policy against ideological crimes does not only focus on normative juridical alone, but also needs policies that are integral and comprehensive from various other social conditions. It is necessary to see the law as it really is (*das sein*). So in essence, the criminalization policy is part of the policy = criminal (*criminal policy*) using the means of criminal law (penal), and therefore it is part of the "*penal policy*", especially the policy of its formulation as well as the existence of a criminal political policy. This is for the sake of law enforcement or "*Law enforcement*".²⁸ If referring to the explanation above, what the government can do as a policy maker is with legislative policies by encouraging the reformulation of the regulation of marijuana as a Class I in the Narcotics Law as a treatment and medical therapy.

CONCLUSION

The right to life is not just a constitutional mandate but must be interpreted with the state that must be present and have an obligation to protect the right to life itself, including taking a series of actions that need to be taken that threaten the lives of its people by determining criminal law policies by conducting comprehensive research on the private ownership of marijuana as a treatment and humanitarian reason. The need for future regulations to regulate the maximum limit on the amount of psychotropics that are stored, used, and possessed illegally so that it can distinguish the perpetrators of criminal acts whether they

²⁴ Moh. Taufik Makarao, et. al. *Tindak Pidana Narkotika, Ghalia Indonesia*, (Jakarta, 2003), p. 43-44

²⁵ M. Zulfa Aulia, "Hukum Progresif dari Satjipto Rahardjo: Riwayat, Urgensi, dan Relevansi", *Undang: Jurnal Hukum* 1, no. 1 (2018): 159-185. <https://doi.org/10.22437/ujh.1.1.159-185>

²⁶ Raka Putra, Membedah Tabir Etika Utilitarian, Refleksi, 29 Juli 2021, <https://lsfdiscourse.org/membedah-tabir-etika-utilitarian/>, 22 Mei 2025

²⁷ G. Peter Hoefnagels, *The Other Side of Criminology an Inversion of The Concept of Crime* (English translation by Jan G. M. Hulsman), (Holland: Kluwer- Deventer, 1973), p. 57

²⁸ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, (Bandung: Citra Aditya Bakti, 2005).

are categorized as owners, users, storers or distributors and the certainty of the misuse of psychotropics. This means refocusing policies and regulations on the impact of public health and safety. Legalization through the creation of a strict regulatory environment aims to reprioritize the way governments respond to cannabis use and align drug policy with actual community practices. The details of this new policy can later be drafted, debated, and discussed in the National Legislation Program and encourage the existence of a Narcotics Law with the practical aim of allowing positive legal regulations to be better formulated to provide guidelines not only to lawmakers, but also to the courts that apply the law and also to the organizers or implementers of court decisions due to various stakeholders interests engage with the expectation that the new regulatory environment will meet its objectives for public health and safety.

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