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BARRIERS TO MEDICAL CANNABIS LEGALIZATION IN INDONESIA: A CASE STUDY OF LEGAL, INSTITUTIONAL, AND POLITICAL INERTIA

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Abstrak

Penelitian ini mengkaji hambatan legalisasi ganja medis di Indonesia dalam kondisi stagnasi kebijakan, meskipun terdapat dinamika global dan perkembangan bukti ilmiah. Kajian ini bertumpu pada kerangka hukum nasional, khususnya Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika, serta keterkaitannya dengan Undang-Undang Kesehatan dan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. Tujuan penelitian adalah mengidentifikasi dan menganalisis hambatan utama dalam perumusan kebijakan ganja medis dari dimensi hukum, kelembagaan, dan politik. Metode penelitiannya menggunakan pendekatan kualitatif dengan desain studi kasus. Data diperoleh melalui wawancara semi-terstruktur dengan 4 (empat) informan serta analisis dokumen berupa penelitian terdahulu, draf perubahan Undang-Undang Narkotika, Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika, Undang-Undang Kesehatan, Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, serta putusan Mahkamah Konstitusi. Analisis dilakukan dengan teknik analisis tematik melalui pengkodean bertahap. Temuan menunjukkan bahwa stagnasi kebijakan merupakan hasil keterkaitan antara ketidakjelasan norma hukum, keterbatasan kapasitas kelembagaan, dan pertimbangan politik dalam proses legislasi. Secara normatif, pengaturan ganja masih bersifat larangan tanpa pengaturan operasional untuk kepentingan medis. Secara kelembagaan, terdapat fragmentasi kewenangan dan dominasi pendekatan penegakan hukum yang restriktif. Selain itu, isu ini cenderung tidak menjadi prioritas dalam agenda legislasi. Secara yuridis, pengujian undang-undang telah dilakukan melalui Putusan Mahkamah Konstitusi Nomor 106/PUU-XVIII/2020 dan Nomor 13/PUU-XXII/2024, namun pelaksanaan penelitian ilmiah yang

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diperintahkan belum terealisasi. Penelitian ini mengajukan konsep *legal-institutional inertia* untuk menjelaskan kebuntuan kebijakan serta merekomendasikan reformasi regulasi terbatas, penguatan kelembagaan, dan strategi komunikasi berbasis bukti.

Kata Kunci: Ganja Medis; Inersia Kebijakan; Analisis Sosial-Hukum; Kebijakan Narkoba; Perubahan Kebijakan; Indonesia

Abstract

This study examines the obstacles to the legalization of medical cannabis in Indonesia amidst policy stagnation, despite global dynamics and the development of scientific evidence. This study focuses on the national legal framework, specifically Law Number 35 of 2009 concerning Narcotics, and its relationship to the Health Law and the 1945 Constitution of the Republic of Indonesia. The objective of this study is to identify and analyze the main obstacles in the formulation of medical cannabis policy from the legal, institutional, and political dimensions. The research method uses a qualitative approach with a case study design. Data were obtained through semi-structured interviews with four informants and document analysis in the form of previous research, draft amendments to the Narcotics Law, Law Number 35 of 2009 concerning Narcotics, the Health Law, the 1945 Constitution of the Republic of Indonesia, and Constitutional Court decisions. The analysis was conducted using thematic analysis techniques through step-by-step coding. The findings indicate that policy stagnation is the result of the interplay between unclear legal norms, limited institutional capacity, and political considerations in the legislative process. Normatively, marijuana regulation remains prohibitive, with no operational regulations for medical purposes. Institutionally, there is fragmentation of authority and the dominance of restrictive law enforcement. Furthermore, this issue tends not to be a priority on the legislative agenda. Legally, judicial review of the law has been conducted through Constitutional Court Decisions No. 106/PUU-XVIII/2020 and No. 13/PUU-XXII/2024, but the implementation of scientific research is believed to have not been realized. This study proposes the concept of legal-institutional inertia to explain the policy impasse and recommends limited regulatory reform, institutional strengthening, and evidence-based communication strategies.

Keywords: Medical Cannabis; Policy Inertia; Socio-Legal Analysis; Drug Policy; Policy Change; Indonesia

INTRODUCTION

Legal regulations regarding the use of cannabis for medical purposes in Indonesia still display a restrictive character and are not aligned with developments in medical science and the fulfillment of the constitutional right to health (Khaerunessa et al. 2025). Law Number 35 of 2009 concerning Narcotics explicitly classifies cannabis as a Schedule



I Narcotics prohibited for use in health services (Narwadan, Lubis, and Hakim 2025). This classification has legal consequences in the form of closing the possibility of legal use of cannabis for medical purposes. However, in the same normative construction, narcotics are in principle recognized as being able to be used for medical and scientific purposes. This indicates an internal inconsistency in the relevant legal regulations (Husin and Rahmadan 2022). This inconsistency is even more apparent when linked to Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees the right to health services (Aswan 2022). In state practice, constitutionality testing of norms has been submitted through Constitutional Court Decisions Number 106/PUU-XVIII/2020 and Number 13/PUU-XXII/2024. Although the Court emphasized the urgency of scientific research on medicinal cannabis, such research has not yet been implemented, further exacerbating the legal uncertainty.

International developments indicate increasing recognition of the use of cannabis for medical purposes, based on scientific evidence and a public health approach (Ismansyah, Elvandari, and Sofyan 2023). Several countries have established regulations allowing for the limited use of cannabis for specific medical therapies (Chandra and Hamonangan 2024). These regulations generally include strict oversight mechanisms and specific medical indication restrictions. One emerging use is the use of cannabidiol (CBD) for certain medical conditions unresponsive to conventional therapy (Buenz et al. 2004). This development reflects a paradigm shift in the regulation of substances previously categorized as prohibited. Furthermore, recommendations from international institutions have strengthened the legitimacy of cannabis use within a health framework (Caniago et al. 2023). This situation has created normative pressure on countries that still maintain a blanket prohibition. However, in the Indonesian context, applicable legal provisions have not yet operationally accommodated these developments, raising issues of harmonization between health protection and criminal law approaches (Nuryanto 2024).

Empirically, studies on medicinal cannabis in Indonesia are still dominated by normative and comparative approaches. Research examining the dynamics of regulatory formation and implementation through a qualitative approach is relatively limited (Ismoyo et al. 2025). In particular, the use of interview data with relevant stakeholders has been limited in previous research. This situation limits understanding actual practices in the field (Sari 2023). Theoretically, there is no analytical model that explicitly explains stagnation through the interaction between legal, institutional, and consideration dimensions in the formation of legislation. This lack of a theoretical framework results in partial analyses. Methodologically, the dominance of document analysis without



empirical data support limits the depth of the study. Therefore, an approach that integrates document analysis and interviews is needed to generate a more comprehensive understanding (Zarzani 2025).

Based on this gap, this study formulates specific research questions. The main question posed is how applicable legal provisions interact with institutional conditions in shaping the regulation of medical cannabis in Indonesia. Furthermore, this study examines how considerations in the process of forming legislation influence the direction of such regulation. The interaction between these three dimensions is seen as a determining factor in explaining the stagnation. This study aims to provide a systematic analysis of the relationships between these dimensions. Thus, this study not only identifies obstacles separately but also examines their interrelationships comprehensively. This approach is expected to provide a more comprehensive explanation of the issues under study. Furthermore, this study seeks to offer a conceptual framework based on empirical findings.

LITERATURE REVIEW

Studies on medicinal cannabis from a public health perspective demonstrate clinical evidence-based developments, particularly regarding the effectiveness of components such as cannabidiol in treating certain medical conditions. This literature emphasizes safety, efficacy, and standards of use in medical practice through clinical trials and pharmacological evaluations. However, this approach does not directly address the normative consequences within the binding national legal system. In the Indonesian context, research by Dani Firmansyah (Firmansyah, 2023) from the University of Indonesia, entitled "Legalization of Marijuana in Indonesia (Case Study of the Indonesian Marijuana Circle)," focuses more on the sociological dimension, specifically the Indonesian Marijuana Circle movement. This focus does not elaborate on the link between scientific findings and the construction of positive legal norms. Consequently, the relationship between medical evidence and the formation of legal regulations is not systematically explained (Ayunda & Vina, 2021; Karunianingsih et al., 2025). This indicates an empirical gap in the limited number of studies linking medical aspects with process-based legal analysis. Therefore, the public health and sociological literature have not been able to provide a comprehensive explanation of the obstacles to regulating medicinal cannabis (Ayunda & Vina, 2021; Muhammad Bagir, 2024; Tomi Gumilang et al., 2023).

On the other hand, literature on narcotics within the criminal law framework positions cannabis as an object of strict control through prohibitive norms and sanctions. This approach focuses on protecting the public from abuse and ensuring consistent law



enforcement. Within this framework, marijuana is classified as a substance without legally recognized medical uses. However, scientific developments are not accommodated within prevailing norms, giving rise to normative tensions. Jennifer Claudia's (Claudia 2024) research from the Faculty of Law at Tarumanagara University, entitled "Analysis of the Pros and Cons of Medical Marijuana Legalization in Indonesia: A Review of Its Content and Implications," describes content-based and perception-based debates but does not elaborate on the legal implications in depth. Therefore, this descriptive approach fails to explain how legal norms maintain their restrictive character. The criminal law literature also lacks adaptive mechanisms for changes in medical knowledge. The distinction between the health and legal approaches is not conceptually bridged. This situation demonstrates the literature's limitations in fully explaining regulatory stagnation.

Furthermore, the literature on the formation of legislation and the institutional approach emphasizes the importance of the interrelationship between legal norms, institutional structures, and legislative dynamics. The concept of path dependency explains that established norms tend to be maintained due to historical continuity in legal formation. This approach provides a theoretical basis for understanding resistance to regulatory change. However, its application in the context of medical marijuana in Indonesia remains limited and unspecific. Muhammad Zulkifli's research from Hasanuddin University, (Zulkifli, 2010.) "Women in the Marijuana Legalization Movement (Case Study: Lingkar Ganja Nusantara)," demonstrates the dynamics of social participation but does not examine institutional aspects and legal construction. Furthermore, the institutional approach in the existing literature is rarely supported by empirical interview-based data. This creates a methodological gap due to the dominance of document analysis without empirical verification. Consequently, the concrete interactions between legal dimensions, institutions, and the legislative process remain inadequately explained. Thus, the available theoretical frameworks are unable to explain the contextual conditions of stagnation.

In the Indonesian legal context, the regulation of medical marijuana is also influenced by constitutional practices through judicial review at the Constitutional Court. Decisions No. 106/PUU-XVIII/2020 and No. 13/PUU-XXII/2024 demonstrate recognition of the relevance of scientific research and the right to health. However, the Court does not establish a direct normative obligation to amend the provisions of the law. As a result, the research emphasized in the decision's considerations has not yet been realized. This situation exacerbates legal uncertainty and the lack of operational regulations. Existing literature fails to explain the relationship between judicial decisions,



institutional structures, and the formation of legislation. The separation between health, criminal law, and institutional approaches results in fragmented analyses. Therefore, an analytical framework is needed that simultaneously integrates these three dimensions. The question that arises is how the interaction between legal norms, institutional conditions, and the process of legislative formation leads to the lack of regulation of medical marijuana (Arief 2020).

RESEARCH METHODS

This research uses an empirical juridical approach with a qualitative socio-legal case study design to explain the lack of regulation of medical marijuana within the Indonesian legal system (Marzuki 2017). This design was chosen based on the need to examine not only written legal norms but also their practice, interpretation, and application within an institutional context. This approach is relevant because the issues under study cannot be explained solely through normative analysis of laws and regulations. The research setting is national, focusing on the period following the enactment of Law Number 35 of 2009 concerning the Development of Narcotics until the Constitutional Court's ruling. This arena encompasses the formation of laws, the implementation of administrative authority, and judicial review of laws in the Constitutional Court. Indonesia was chosen because it maintains a legal prohibition on marijuana without operational medical regulation. Furthermore, judicial review of laws has occurred through Constitutional Court Decisions Number 106/PUU-XVIII/2020 and Number 13/PUU-XXII/2024, which are legally relevant. However, the scientific research emphasized in these decisions has not yet been implemented.

This study involved four participants selected using purposive sampling and a limited snowball approach (Hydén 2021). Participants were categorized as those directly involved in the formulation, interpretation, and implementation of narcotics laws. The selection of participants was based on the principle of sufficient information in qualitative research. Primary data was collected through semi-structured interviews conducted over a specific period of time, providing sufficient duration for in-depth exploration. Secondary data was obtained through document analysis, including previous research, draft amendments to the Narcotics Law, Law Number 35 of 2009 concerning Narcotics, the Health Law, the 1945 Constitution of the Republic of Indonesia, and Constitutional Court decisions. Document collection was conducted systematically to trace the development of legal regulations and arguments. All data was documented and organized for further analysis. This combination of data sources allows for comparisons between legal norms and their practices. Thus, this study simultaneously integrates normative and empirical dimensions.



Data analysis was conducted using thematic coding techniques, beginning with the identification of meaningful units from interviews and documents (Stychin 2019). This process continued with grouping codes into categories reflecting legal, institutional, and regulatory dimensions. Key themes were then developed through an iterative process to identify patterns of relationships between categories. The concept of legal-institutional inertia was derived from empirical findings that demonstrated a mutually reinforcing relationship between these dimensions. To ensure data reliability, this study employed source triangulation techniques between interviews and legal documents. Furthermore, the consistency of the findings was checked through rereading the data and limited discussions with colleagues. Trace analysis was documented to ensure the traceability of the research process. In-depth descriptions were used to describe the legal context and institutional practices in detail. Thus, the internal validity of the study was strengthened through this combination of techniques.

Researcher reflexivity was maintained by recognizing normative assumptions related to the right to health and the regulation of narcotics in positive law. The researcher actively separated personal normative positions from interpretations of the empirical data obtained. This approach was taken to maintain objectivity in the analysis. From an ethical perspective, all participants were provided with an explanation of the research objectives and provided informed consent before the interviews were conducted. Participants' identities were kept confidential to protect their interests. The data obtained was used solely for academic purposes. This research did not involve any direct intervention or risk to participants. Therefore, no complex formal ethics approval was required. However, precautionary principles were applied throughout all stages of the research.

RESULTS AND DISCUSSION

Results

The normative ambiguity in the regulation of marijuana is evident in the construction of Law Number 35 of 2009 concerning Narcotics, which classifies marijuana as a Schedule I narcotic without providing operational guidance for medical purposes (Lutfiyani, Hamzani, and Rizkianto 2023). The formulation of the norm opens up scope for scientific use, but lacks executive instruments governing research procedures, licensing, or supervision (Hakam 2022). This absence of derivative norms limits the possibility of concrete implementation. An informant from a government agency (Ginting 2025) as informant 1 stated: "Normatively, there is scope for research, but there are no technical guidelines that can be implemented." This situation demonstrates a gap between legal norms and implementation capabilities. The lack of technical regulations



creates unease in administrative practice. The existing norms do not provide operational guidance for relevant agencies. This situation places the regulation in a position where it cannot be implemented effectively (Maulidi 2021).

This normative tension intersects with judicial developments through Constitutional Court Decisions Number 106/PUU-XVIII/2020 and Number 13/PUU-XXII/2024. The Court's considerations acknowledge the urgency of scientific research related to medicinal cannabis and its relationship to the right to health. However, the ruling does not establish a direct normative obligation to amend the law. The decision formulation rather positions the issue as a field for lawmakers and relevant institutions to follow up on. A legal informant (Direktorat Jenderal PP Kementerian Hukum 2025) as informant 2 stated: "The ruling opens up space, but it doesn't impose obligations that must be implemented." There is no oversight instrument to ensure follow-up on these considerations. Informant 1 added: "Without derivative regulations, we have no basis for action." The relationship between judicial recognition and administrative action demonstrates the limited impetus for the decision. Normative recognition does not translate into operational steps.

The institutional structure reflects a distributed distribution of authority without a clear coordinating authority. Regulations related to medicinal cannabis involve various institutions with overlapping mandates. The absence of an institution that serves as a guiding force for coordination results in fragmented operations (Tomida et al. 2006). An informant from a healthcare institution (Anggriani 2025) as informant 3 stated: "It's cross-sectoral, but there's no institution that explicitly takes the lead." Interactions between institutions occur within the boundaries of their respective authorities without substantive integration. This pattern demonstrates fragmentation in the implementation of administrative functions. The separation of authority hinders the development of joint measures. The institutional structure does not provide an effective consolidation mechanism (Jampel 2020). This situation exacerbates the system's weaknesses in producing coordinated regulations.

Limited institutional capacity further exacerbates implementation barriers. The technical capacity to conduct clinical research related to cannabis is not yet sufficiently developed. The regulatory infrastructure necessary for overseeing medical use is also lacking. An informant from a law enforcement agency stated: "The risk is high if there is no clear legal basis, so everyone tends to wait." This statement reflects a cautious orientation in institutional practices. Several other informants stated that capacity can be developed if there is clarity in legal norms. These differing perspectives demonstrate variations in assessments of institutional readiness. Limited capacity does not exist in



isolation but interacts with unclear norms. This situation reinforces the tendency for concrete action not to occur.

The tendency for delayed action emerges as a systemic response to fragmented legal protections and institutional structures. Institutions tend to avoid exercising basic discretion without explicit legal framework. Informant 2 stated: "No one wants to take risks without a clear legal basis." Informant 3 added: "Everyone is waiting for clarity before taking action." This pattern indicates a collective cautious attitude. Some views suggest that limited action is still possible through progressive interpretations of existing norms. However, this approach has not become the dominant practice. This variation indicates a space for interpretation that is not being utilized uniformly. The interaction between legal norms and institutional practices shapes the conditions for the unsustainable development of medical cannabis regulation.

Discussion

The interplay between legal provisions and institutional practices is concretely evident in the absence of implementation measures regarding medical cannabis (Nurjanah et al. 2022). The classification of cannabis as a Schedule I Narcotics in Law Number 35 of 2009 was not followed by the development of implementing regulations governing research or restricted use. Officials at the ministerial and agency levels lacked the administrative basis for issuing research permits. Informant 1 stated: "We can't process anything without a clear technical basis." This situation resulted in the suspension of action at the early stages of the administrative process. There were no applicable procedures for submission, evaluation, or oversight. This practice demonstrates that legal norms are not implemented due to the lack of operational instruments. This situation reflects a direct link between norm design and administrative action (Ma'ruf 2023).

This situation is reinforced by the Constitutional Court Decisions Number 106/PUU-XVIII/2020 and Number 13/PUU-XXII/2024, which did not result in procedural changes. The Court acknowledged the importance of medical cannabis research but did not order the creation of derivative regulations or the appointment of implementing agencies. There were no deadlines, implementation mechanisms, or sanctions for non-compliance. Informant 2 stated: "The ruling provides space, but there are no actionable work instructions." Officials viewed the ruling as a normative reference without direct administrative consequences. No work unit was formally assigned to follow up on the Court's deliberations. Consequently, no changes occurred in institutional procedures or practices. The ruling served as recognition, but not as an instrument of implementation.



The fragmentation of authority between institutions is evident in the absence of any institution initiating cross-sectoral coordination processes. The Ministry of Health, law enforcement agencies, and other institutions are interconnected, but there is no established collaborative working mechanism. Informant 3 stated: "There is general coordination, but there is no specific agenda being implemented together." Coordination meetings did not produce operational decisions regarding medical cannabis. Each institution remained committed to its respective sectoral mandate. No dedicated working teams or units were formed to address this issue. This practice demonstrates that coordination is formal without any implementable output. This fragmentation results in delays in decision-making. This situation demonstrates that institutional structures directly impact the implementation of norms

Limited institutional capacity is evident in the lack of standardized clinical research facilities and procedures (Pangaribuan 2024). There are no officially designated laboratories to conduct medical cannabis research. Furthermore, there are no technical guidelines regarding the oversight of the distribution or use of the substance for medical purposes (Arfiani and Utami 2022). Informant 4 stated: "If a permit is issued without a monitoring system, it carries a high legal risk." Officials believe that implementation without a ready system could lead to legal consequences. Therefore, there has been no initiative to initiate pilot programs or limited research. Some informants stated that capacity can be built, but requires a clear legal basis first. This situation demonstrates a direct link between technical capacity and administrative courage. The lack of capacity reinforces the tendency to inaction.

Institutional responses to this situation demonstrate a consistent pattern of delay. Officials choose not to exercise discretion in situations of legal uncertainty. Informant 2 stated: "No one wants to make a decision without clear legal protection." Informant 3 added: "Everyone is waiting for more specific regulations before acting." No administrative policy initiatives such as the development of internal guidelines or pilot projects were found. While there is room for interpretation, this approach is not widely adopted. The varying views among informants do not result in any real action. This practice demonstrates that caution is the dominant pattern within the bureaucracy. Delay is a response to undefined legal risks. This situation demonstrates how uncertainty translates into inaction.

The overall findings indicate that the lack of regulation of medical marijuana is the result of a direct interaction between legal norms, court decisions, and institutional practices. Inoperative norms, unimplemented decisions, and limited capacity reinforce each other. No administrative measures were found to connect these three aspects. The



public health literature does not explain this situation because it does not highlight institutional practices. Criminal law analysis explains prohibition, but does not explain it.

CONCLUSION

The empirical contribution of this research lies in explaining how legal provisions, court decisions, and institutional practices interact concretely to shape the lack of implementation of medical cannabis regulations in Indonesia. Interview data indicates that the absence of implementing regulations for Law Number 35 of 2009 hampers administrative action, while Constitutional Court Decisions Number 106/PUU-XVIII/2020 and Number 13/PUU-XXII/2024 have not resulted in implementable procedural changes. Institutional practices lead to stalled action due to legal risks and a lack of operational basis. Fragmentation of authority and limited technical capacity reinforce these conditions. These findings suggest that the lack of regulation is not solely due to prohibitive norms but also to the absence of viable implementation mechanisms. Therefore, this research provides an empirical overview of the dynamics of legal implementation in a sensitive regulatory context.

The theoretical contribution of this research lies in the formulation of the concept of legal-institutional inertia as a framework to explain the lack of regulatory development. This concept demonstrates that the ambiguity of legal norms, limited institutional capacity, and the non-interacting nature of judicial decisions simultaneously contribute to the interplay of legal norms. This approach complements previous literature that tends to separate legal, institutional, and legislative process analysis. The research findings demonstrate that stagnation is not a temporary condition, but rather the result of mutually reinforcing configurations. This concept also emphasizes that legal change cannot be sufficiently explained through normative revision alone. The interaction between these dimensions is a determining factor in understanding these dynamics. Thus, this research offers a more integrated analytical framework to explain the failure of regulatory implementation.

The practical implications of this research demonstrate the need for gradual and measured implementation steps. The development of implementing regulations specifically governing medical cannabis research is a key need to address operational gaps. Furthermore, the establishment of an institution with coordinating authority to integrate cross-sectoral functions is necessary. Strengthening technical capacity, particularly in clinical research and oversight systems, is also an important aspect to consider. Constitutional Court decisions can serve as an initial normative basis, but require clear administrative follow-up. Without these steps, legal recognition will not



result in the changes made. This approach emphasizes that implementation requires a link between norms, institutions, and capacity. Therefore, improvement lies not only in legislative changes but also in strengthening implementation mechanisms.

This study is limited by its relatively limited number of informants and focus on a single national context, making the findings difficult to generalize widely. The data used focused heavily on interviews and document analysis, thus not encompassing broader quantitative dimensions. Furthermore, this study does not fully explain variations in practices at the subnational level. Future research could expand the number of participants and involve more institutions to obtain a richer range of perspectives. Comparative studies across countries could also be used to test the relevance of the developed concepts. Furthermore, a mixed approach could provide a more comprehensive picture. Thus, future research developments could strengthen the validity and scope of the findings.

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