REGULATORY IMPACT ANALYSIS (RIA) OF THE PROHIBITION OF MEDICAL MARIJUANA IN INDONESIA: A PERSPECTIVE OF RESPONSIVE LEGAL THEORY

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Abstract
This study analyzes the implications of Indonesia's prohibition on medical cannabis use for healthcare services through the instrument of Regulatory Impact Analysis (RIA), and formulates an ideal policy reconstruction based on Nonet and Selznick's Responsive Law Theory. Although Article 28H of the 1945 Constitution guarantees the right to health and the Constitutional Court has mandated comprehensive scientific studies, Article 8(1) of the Narcotics Law and Health Ministry Regulation No. 15 of 2025 continue to classify cannabis as a Class I narcotic without medical exception. This normative legal research employs statute, conceptual, case, and comparative approaches, analyzed qualitatively-prescriptively through systematic and teleological interpretation. The RIA analysis reveals a significant cost-benefit imbalance: cannabis remains the most abused narcotic despite total prohibition, while patients with refractory epilepsy and cerebral palsy lose access to alternative therapy, as illustrated by the criminalization of Fidelis Arie Sudewarto and the death of Pika Sasikirana. Further findings show incoherence with the Health Law, the absence of stakeholder consultation, and the lack of a periodic evaluation mechanism, reflecting the characteristics of autonomous law. Drawing on Thailand's 2018–2025 regulatory transition, which demonstrates that strict control is more effective than total prohibition, this study proposes a five-pillar reconstruction model: tiered licensing, controlled distribution, dosage standardization, medical personnel training, and periodic evaluation. The study concludes that Indonesia's narcotics law must be revised toward a purposive, participatory, and substantively just legal character, without abandoning its social control function.
Keywords: Medical Cannabis; Regulatory Impact Analysis; Responsive Law; Policy Reconstruction; Right to Health

1. Introduction

The state is basically constitutionally obliged to guarantee the right to health and medical services for every citizen, as expressly mandated in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution). This constitutional obligation is in line with the principle of legal protection of the right to obtain health services as part of human rights. (Mohamad, 2019) In terms of the ideal concept, the state should be present to facilitate the medical needs of the community in line with the achievement of the Sustainable Development Goals (SDGs), especially related to welfare and well-being. However, the fulfillment of this constitutional right is still hampered in the discourse on the use of marijuana for medical purposes. The Constitutional Court (MK) through Decision Number 106/PUU-XVIII/2020 and reaffirmed in Decision Number 13/PUU-XXII/2024, again rejected the application for material testing related to the legalization of medical marijuana. In its consideration, the Constitutional Court considers that the regulation of Class I Narcotics for health services is entirely in the realm of open legal policy from the lawmakers, but nevertheless the Constitutional Court still mandates the need for comprehensive research by the state as the basis for future law revisions. (Bone & Seddon, 2016) (Prassetyo, 2022)

At the normative level (das sollen), the current legal rule in Indonesia still does not accommodate access to the use of marijuana for the purpose of medical services. This policy is sourced from Article 8 paragraph (1) of Law Number 35 of 2009 (Narcotics), which stipulates the prohibition of the use of Class I Narcotics for health services and through paragraph (2) only leaves a special space for scientific development. This prohibition is consistently maintained through the Regulation of the Minister of Health (Permenkes) Number 15 of 2025 concerning Changes in the Classification of Narcotics. The regulation still maintains marijuana plants and their derivatives in the list of Class I Narcotics without providing an exemption for medical emergencies. The problem of this rule creates legal disharmony when analyzed with Law Number 17 of 2023 concerning Health. On the one hand, the Health Law has changed the national paradigm by guaranteeing the constitutional right of every patient to health services that include preventive, curative, and palliative efforts. However, the regime of the Narcotics Law as a lex specialis instrument does not accommodate this. As long as the revision of the Narcotics Law has not been passed to respond to the mandate of an open legal policy from the Constitutional Court Decision Number 106/PUU-XVIII/2020 and Decision Number 13/PUU-XXII/2024, the current rules cannot accommodate the right to treatment and health rights for patients or individuals who need medical marijuana. (Pangaribuan, 2024) (Putranto & Arie Mangesti, 2024) (Pratiwi et al., 2023)

These normative rules are ultimately contrary to the empirical reality (das sein), where the prohibition of medical marijuana for health is not effective in achieving the main goal, which is to reduce the number of narcotics crimes. Based on the latest National Prevalence Survey in 2025 released by BNN, the rate of narcotics abuse actually increased to 2.11% or equivalent to 4.15 million people (Alfarisi, Ningsih, & Firdaus, 2026) (Research Center, 2026) , with the highest increase occurring in the vulnerable age group which increased to 2.53%. In the previous period survey, the prevalence of BNN, BPS, and BRIN in 2023 revealed that marijuana is the most abused type of narcotic in Indonesia with a percentage of 44.7%, far surpassing methamphetamine, ecstasy, and amphetamines which are only 22.1%. This data confirms that the prohibition of marijuana without medical exemptions has not succeeded in suppressing the abuse of marijuana itself. This problem is an illustration where the law is actually used to limit the right to life of patients/individuals who need medical marijuana. Based on the Epilepsy Management Guidelines, there are around 1.4 million people with epilepsy in Indonesia of which 40% to 50% of them are children who are prevented from accessing alternative treatment. This condition is even more urgent considering that more than 20% of people with epilepsy are either refractory or unresponsive to first- and second-line treatment as defined by the International League Against Epilepsy (ILAE), so therapeutic alternatives such as medical marijuana are important for this group of patients. The tragedy of this stagnation of the rule of law is clearly seen through the conviction of Fidelis Arie who tried to grow marijuana to save his wife's life and the passing away of a child with cerebral palsy, Pika Sasikirana in early 2025. Pika died due to a regulation that has not accommodated this right where the government through BNN and related agencies has only inaugurated the first research on medical marijuana in 2025, which is 5 years away from the Constitutional Court Decision Number 106/PUU-XVIII/2020 which discusses the urgency of medical marijuana for individuals or patients in need. (BNN et al., 2023) (Kusumastuti et al., 2019) (Devinsky et al., 2017) (Tarigan & Naibaho, 2020)

The discourse on the urgency of legalizing medical marijuana is very interesting and important so there have been several previous literatures. First, research that analyzes this problem from the perspective of human rights and morality. Second, the research analyzes this issue normatively juridically by highlighting the urgency of health law reform in Indonesia as the basis for the legalization of medical marijuana. Third, the study measures the tolerance limit of cannabis use for medical emergencies through the perspective of Islamic law. Fourth, research that empirically validates the high potential of non-psychoactive and therapeutic Cannabidiol (CBD) compounds in local cannabis plant varieties from Aceh. Although the four literature has provided a foundation in terms of human rights, normative, religious, and scientific. This still leaves a fundamental research gap. There has been no specific study analyzing existing regulatory failures using the Regulatory Impact Analysis (RIA) instrument (Natalis et al., 2025) (Karunianingsih et al., 2025) (Setyawan et al., 2026) (Supiyani et al., 2025) (Azis et al., 2023) , which is strengthened by Responsive Legal Theory. The urgency to offer a measurable public policy reconstruction design in this study is supported by the arguments of experts and policymakers in Indonesia. First, Member of Commission III of the House of Representatives of the Republic of Indonesia, Hinca Panjaitan, who proposed the establishment of a Special Economic Zone (SEZ) for Medical Marijuana with strict control. Both pharmaceutical experts from Udayana University and BRIN researchers who are currently officially appointed to validate the medical potential of the plant nationally. (Nonet & Selznick, 2001) This research is even more interesting and important if we compare it to Thailand, the first country in Southeast Asia to officially legalize the use of cannabis for medical purposes

in 2018. Although several studies have compared Indonesia's medical marijuana policy and Thailand in general, until now there has been no study that specifically analyzes it through the Regulatory Impact Analysis (RIA) approach which is strengthened by Responsive Legal Theory, thus strengthening the urgency of this research. (Jamaludin et al., 2023)

Based on what has been explained, the research problem in this study focuses on the systemic failure of the medical marijuana prohibition rules in Indonesia that trigger legal disharmony. Policies that do not see the current reality not only sacrifice patients' constitutional right to access health care but ironically prove to be empirically ineffective in reducing the number of drug abuse in the field. These regulatory weaknesses should not only be seen through a positivistic lens, but require a cost of regulation analysis through the Regulatory Impact Analysis (RIA) instrument, which is then answered using Responsive Legal Theory to provide evidence-based humane solutions and remain supervised according to regulations. Therefore, in order to comprehensively analyze these legal weaknesses as well as offer a measurable public policy design, this research is focused on answering two problem formulations: First, How are the implications of banning the use of medical marijuana for health services reviewed from the Regulatory Impact Analysis (RIA) instrument?. Second, how is the ideal reconstruction of the policy of medical marijuana use in Indonesia based on Responsive Legal Theory?

2. Literature Review

2.1 Responsive Legal Theory

The theory used in this study is the Responsive Legal Theory developed by Philippe Nonet and Philip Selznick through their work, Law and Society in Transition: Toward Responsive Law, which was first published in 1978. In this work, Nonet and Selznick propose a typology of legal evolution consisting of three characters, namely repressive law, autonomous law, and responsive law. Repressive law is characterized as an instrument of power that serves the interests of the ruler and tends to be coercive, while autonomous law places the law as an independent but rigid, legalistic, and procedural compliance-oriented institution without considering the substance of justice or the social context behind it. Different from these two types, responsive law is interpreted as a legal order that consciously integrates social goals into its legal reasoning (purposive reasoning), is adaptive to changing needs and aspirations of society, opens up a wider space for public participation, and is always oriented towards achieving substantive justice and not just formal certainty. These characteristics of responsive law are relevant to analyze the issue of medical marijuana regulation in Indonesia because the current regulations as contained in Article 8 paragraph (1) of the Narcotics Law and Permenkes Number 15 of 2025 still show the character of autonomous law and are less adaptive to the development of science and the medical needs of patients. The relevance of the application of this theory in the context of health law is also confirmed by previous research which shows that Indonesian health regulations in general still tend to be autonomous so that they are less adaptive to the dynamics of social needs, and the application of responsive legal principles actually opens up space for regulations that are more adaptive, participatory, and oriented towards substantive justice for patients. Therefore, Responsive Legal Theory is used in this study as a prescriptive instrument to formulate the direction of the reconstruction of medical marijuana policies that are oriented to the substantive needs of patients without ignoring the social control function that remains in the narcotics law itself. (Nonet & Selznick, 2001) (A. N. Kartika & Hoesein, 2025)

2.2 Konsep Regulatory Impact Analysis (RIA)

The second analysis knife used in this study is Regulatory Impact Analysis (RIA), which is a policy evaluation method that began to be systematically formalized by the Organisation for Economic Co-operation and Development (OECD) since the mid-1990s, marked by the publication of Regulatory Impact Analysis: Best Practices in OECD Countries in 1997 which became the main reference for member countries in integrating RIA into the cycle of regulatory formation and reform. Conceptually, RIA is defined as a method that systematically identifies, measures, and communicates the positive and negative economic, social, and environmental impacts of a proposed or ongoing regulation with the aim of ensuring that the benefits generated by a policy are commensurate with the costs it causes. Core elements in the RIA process generally include identifying the problems to be solved, setting policy objectives, formulating alternative policy solutions, cost-benefit analysis of each alternative, and consultation with affected stakeholders before a regulation is established or maintained. In the context in Indonesia, RIA is interpreted as a policy evaluation instrument that systematically assesses the positive and negative influences of regulations that are being proposed or are currently underway as well as functioning as a means to develop policies that are oriented to the public interest, effective, credible, and responsive. The use of RIA in this study is intended to systematically test whether the policy of prohibiting medical marijuana that normatively aims to reduce the number of narcotics crimes really produces benefits commensurate with the social costs it causes, such as hindered access to treatment for

patients with refractory epilepsy and cerebral palsy, as illustrated in the case of Fidelis Arie Sudewarto and Pika Sasikirana. With this approach, RIA serves as an analytical instrument to identify regulatory failures which then becomes the basis for the argument for the policy reconstruction proposed in this study (OECD, 1997) ; (Azis et al., 2023).

3. Research Methods

This research is a normative legal research (doctrinal research) that focuses on the study of inventory and analysis of the principles, dogmas, and positive legal order that govern the use of medical marijuana in Indonesia. In order to answer the legal problems that have been formulated comprehensively, this research operationalizes four approaches (Marzuki, 2017) (Muhaimin, 2020) , namely the statute approach, the conceptual approach, the case approach, and the comparative approach. The statute approach is used to find and analyze disharmony between regulations, specifically linking the prohibitions in Law Number 35 of 2009 (Narcotics) and Permenkes Number 15 of 2025, with the guarantee of medical protection mandated by Law Number 17 of 2023 concerning Health. Furthermore, the conceptual approach is applied using the concepts of Regulatory Impact Analysis (RIA) and Responsive Legal Theory to build arguments about the disadvantages of current regulations (cost of regulation) as well as design and build an ideal policy reconstruction.

Then, the case approach is used to analyze the ratio decidendi (legal considerations) of the two fundamental decisions of the Constitutional Court, namely Decision Number 106/PUU-XVIII/2020 and Decision Number 13/PUU-XXII/2024. The analysis of this decision aims to show the constitutional mandate related to open legal policy and the urgency of medical marijuana research that is ignored by the state. Finally, a comparative approach was used to conduct a study of Thailand as the first country in Southeast Asia to legalize medical marijuana. This comparative study will look at the development of Thailand's regulations transitioning to a medical prescription-based limited access model in 2025–2026, as an empirical reference that strict controls are far more effective than total bans. (Jonaedi Efendi & Johnny Ibrahim, 2016)

The sources of legal materials in this study consist of primary materials (laws and regulations and court decisions) and secondary materials (reputable scientific journals, books, and official reports of institutions). All legal materials collected through library research were analyzed using qualitative-prescriptive methods. The main scalpel in this analysis not only relies on deductive reasoning, but also uses systematic interpretation and teleological interpretation. Systematic interpretation is used to unravel the hierarchy and disharmony between the Narcotics Law and the Health Law. Meanwhile, teleological interpretation is applied to explore the meaning and philosophical purpose of the right to health behind the text of the 1945 Constitution, as well as to evaluate whether the ontological goal of criminalization has been achieved and in accordance with the parameters of effectiveness in the RIA method and the principles of Responsive Legal Theory. (And et al., 2024) (Mertokusumo, 2014)

4. Results and Discussion

4.1 What are the Implications of the Prohibition of the Use of Medical Marijuana for Health Services Reviewed from the Regulatory Impact Analysis (RIA) instrument?

If the implications of the prohibition of medical marijuana are analyzed using the concept of Regulatory Impact Analysis (RIA), its main function as an instrument to test the balance between benefits and costs of regulation actually shows surprising results. Normatively, Article 8 paragraph (1) of the Narcotics Law aims to reduce the number of abuses, but empirically this goal is not achieved, as can be seen from the high prevalence of marijuana abuse which reaches 44.7% of the total narcotics cases and continues to increase in the 2025 National Prevalence Survey. Ironically, the burden borne is borne by vulnerable groups, namely patients who need alternative therapies, as illustrated in the study on the withdrawal of anti-seizure syrup drugs that leave cerebral palsy patients without safe treatment alternatives, a problem that is relevant to the concrete case of Pika Sasikirana in this study. The inequality between the unattained benefits and the real social burden is what in RIA is called (Alfarisi, Khaliq, Nubli, Rambe, et al., 2026) (Alfarisi, Khaliq, Nubli, Hasbas, et al., 2026) (Caniago et al., 2023) regulatory failure, and this failure cannot be separated from the legal rules that govern it. Through the theoretical perspective of Nonet and Selznick, the rule that maintains the prohibition without exceptions of medical emergencies despite being confronted with scientific evidence and the suffering of concrete patients is characteristic of autonomous law that runs behind closed doors, legalises, and ignores obvious reasons. This means that the failures analyzed in the RIA are not just technical problems of regulation but a reflection of laws that do not have a substantive justice paradigm.

Another element of RIA that is relevant to see the implications of this prohibition is the obligation to consider policy alternatives and evidence-based continuous evaluation, two things that are absent from

the current design of Indonesia's medical marijuana regulations. The absence of this evaluation mechanism is different from in Thailand, which after legalizing medical marijuana in 2018 still leaves room for monitoring and policy adjustments based on consumption data and user perceptions in the field, so that policies can continue to be corrected when new patterns of abuse or risks are found. This kind of model is in line with the core idea of responsive law, which is that a law that is open to social participation and feedback does not shut itself off from change. On the other hand, the rule in Indonesia that maintains such conditions without an evidence-based review mechanism loses the function of the RIA as a policy learning instrument while strengthening the autonomy of the narcotics law which is final and closed from scientific development. The implication is that the prohibition of medical marijuana not only leaves a disproportionate social cost but also makes Indonesia stagnant in a legal system that loses adaptive capacity even though adaptation is what should be achieved both conceptually by RIA and by the responsive legal goals themselves. (Assanangkornchai et al., 2022) (Alfarisi, Ningsih, & Khaliq, 2026)

The third element of RIA to be analyzed in looking at the implications of this prohibition is the identification of the problem, namely the extent to which a rule is in line with the broader rule of law. In this context, the prohibition on the use of medical marijuana in Article 8 paragraph (1) of the Narcotics Law actually creates a conflict of norms with Law Number 17 of 2023 concerning Health which guarantees the right to health services in its entirety, a problem that has not been resolved in the Indonesian legal system. This inconsistency is not just a technical weakness of the legislation, but a sign of weakness in the rules that should have been detected from the early stages of the RIA, namely when the problem formulation was carried out. As a comparison of the application of RIA to large-scale social restriction policies during the Covid-19 pandemic in South Tangerang City, it is concluded that a regulation that is no longer in line with the real needs of the community must be revised once it is proven to fail to accommodate the interests that should be protected. This is relevant when we compare it to the case of medical marijuana because the concrete cases that have been described show that the rules that have been maintained actually fail to adjust to the needs of public health where the rules should be revised for the benefit of the community. (Mentari et al., 2025) (Chairuddin & Satispi, 2023)

The fourth and fifth elements of the RIA are stakeholder consultation and scientific evidence bases as a prerequisite before a regulation is enacted or maintained. This principle is affirmed in the practice of RIA in Indonesia, where public consultation at every stage actually serves to increase the transparency and legitimacy of the regulatory process while reducing the risk of unforeseen impacts. However, this practice is often not applied, for example in the process of maintaining the ban on medical marijuana in Indonesia. In fact, in its deliberations, the Constitutional Court has explicitly encouraged the government and the House of Representatives to conduct an in-depth, comprehensive, and evidence-based scientific study as the basis for reviewing narcotics policy. The mandate will only be responded to through the first research on medical marijuana in 2025, five years after the Constitutional Court Decision Number 106/PUU-XVIII/2020 was issued. This time lag shows that evidence-based consultation that should be a requirement before maintaining the restrictive policy is only fulfilled long after the policy has been implemented and resulted in victims, so that the function of the RIA as a prevention instrument has changed to just a belated evaluation. The implication is that the prohibition of medical marijuana for health services not only fails substantively but also fails procedurally because it ignores the stages of consultation and scientific proof that are at the core of the RIA itself. (Zulmawan, 2022) (A. Kartika et al., 2025)

Table 1. Overview of the Analysis of RIA Elements on the Medical Marijuana Prohibition Policy in Indonesia

Number	RIA Elements (OECD, 1997)	Research Focus	Research Findings
1	Problem Identification & Regulatory Coherence	Horizontal-vertical disharmony of the Narcotics Law, the Health Law, and the Minister of Health Regulation 15/2025	Conflict of norms that create legal uncertainty (Mentari et al., 2025)
2	Cost and Benefit Analysis	Abuse suppression benefits vs. social burden (patient death, criminalization)	Benefits are not achieved; Cannabis remains the most abused substance (44.7%) while the social burden is real (Caniago et al., 2023)
3	Formulation of Policy Alternatives	Status quo total ban vs. prescription-based	Alternative models provide monitoring mechanisms that

		limited access model (Thailand)	do not exist in Indonesia (Assanangkornchai et al., 2022)
4	Stakeholder Consultation & Scientific Evidence	Fulfillment of the mandate of the Constitutional Court for comprehensive scientific studies	Primary scientific studies will only begin in 2025, five years after the Constitutional Court's decision (A. N. Kartika & Hoesein, 2025)
5	Continuous Monitoring and Evaluation	Presence/absence of a periodic review mechanism on the impact of regulations	No post-legislative review mechanism was found; regulations are final (Zulmawan, 2022)

Source: Processed by the author year (2026)

Although the five elements of the RIA above manage to provide a systematic picture of the failure of the medical marijuana prohibition policy, this instrument essentially stops at the diagnosis stage. RIA is designed as a method that measures the suitability between the goals, costs, benefits, and procedures of establishing a regulation but according to the authors does not have a normative framework to explain why a legal system can survive in a pattern that does not work despite scientific evidence and growing social pressure pressures. In other words, RIA is able to show that something is wrong but does not explain why the legal rule that made the mistake is maintained, nor what kind of direction of change should be aimed at so that similar failures do not happen again. This weakness is the urgency why a more responsive policy reconstruction to the needs of public health services is needed.

4.2 How to Build the Ideal Medical Marijuana Utilization Policy in Indonesia Based on Responsive Legal Theory?

The character of autonomous law attached to Article 8 paragraph (1) of the Narcotics Law and Permenkes Number 15 of 2025, which is only oriented towards procedural compliance, needs to be reconstructed towards a responsive legal character that consciously integrates social goals, namely the fulfillment of the right to health, into its legal reasoning. This analysis is not just a normative idea without empirical evidence, as demonstrated by Thailand, which from the beginning designed its medical marijuana legalization in 2018–2019 with a strict licensing scheme involving Government Pharmaceutical Organizations, certified health workers, and research institutions, so that the law does not simply prohibit or exempt absolutely, but accommodates medical needs while maintaining a control function. This model reflects purposive legal reasoning because it conforms to the goal to be achieved, namely safe access to health, placed as the primary consideration rather than mere compliance with normative rules. Therefore, the study of cannabis regulation in Indonesia also confirms that the most realistic legal reform option is not the complete revocation of class I narcotics status, but the establishment of a measurable and closely supervised medical exemption mechanism, so that the social control function of the narcotics law is maintained. Thus, the reconstruction of the ideal policy does not mean unlimited freedom, but the transformation of the legal character from a closed and legalistic one to a law that is open to scientific evidence and the needs of patients without losing its supervisory function. (Karunianingsih et al., 2025) (Wala et al., 2025)

The urgency of this reconstruction is further strengthened by the latest developments in Thailand, which show the characteristics of responsive law, namely its willingness to continue to adapt as new problems arise. After full decriminalization in 2022 triggered an uncontrolled rise in recreational access, the Thai government in June 2025 reclassified cannabis flowers as a controlled herb and required a medical prescription for every purchase, in response to widespread concerns of access by children and adolescents. This change of direction is not a setback towards repressive law, but rather a tangible proof that responsive law is neither onerous to freedom nor static, but rather continues to look at social feedback and correct itself without abandoning its initial commitment to continue to provide legitimate medical access. This lesson is relevant for the design of the reconstruction of medical marijuana policy in Indonesia, which should ideally be built on five interrelated pillars, namely a licensing scheme involving BPOM and referral hospitals, strictly controlled distribution, standardization of labeling and dosage, training of medical personnel, and periodic reporting and evaluation mechanisms. These five pillars are also a concrete form of responsive law, because it is the periodic evaluation mechanism that allows policies to continue to be corrected based on field evidence that currently does not exist in the design of Indonesian cannabis regulations and is one of the causes of failure that has been described previously. (Danur Symbol of Pristiandaru, 2025)

The policy reconstruction discussed in this study is the opening of a wider space for public participation, considering that the process of forming medical marijuana policies in Indonesia has been still ongoing behind closed doors and dominated by a security perspective only. The proposal to establish a Special Economic Zone (SEZ) for Medical Marijuana by Members of Commission III of the House of Representatives of the Republic of Indonesia is a valuable political capital, but without the participation mechanism, the proposal risks repeating the old pattern, namely policies formulated from above without involving those most affected. A study of the public space in the discourse on the legalization of medical marijuana in Indonesia shows that this right is actually a realm of power negotiation between the government, patient groups, the scientific community, and activists, so that policy design and participation-based are an absolute requirement for the policy to be accepted socially and not just procedurally legitimate. This is in line with the findings that the medical marijuana legislation process in Indonesia has been driven more by short-term political considerations than dialogue with medical stakeholders and patients, so that the resulting legal products tend to be weak in terms of legitimacy and implementation. Therefore, the ideal reconstruction should institute permanent consultations involving health professional organizations, patient groups such as families of people with refractory epilepsy and cerebral palsy, as well as research institutions, as an integral part of the legislative and policy evaluation process in the future. (Saputra et al., 2025) (Quarterly et al., 2024)

The context is no less important is the partiality of the law responsive to patient justice, which in this context means placing the right to health as a human right guaranteed by Article 28H paragraph (1) of the 1945 Constitution, not just an administrative interest that can be defeated by the interests of narcotics control alone. The philosophical perspective on health as a human right asserts that the state bears an obligation to ensure the accessibility of health services, including alternative therapies, without discrimination or disproportionate legal barriers. This principle should be the basis for making a firm distinction between marijuana abusers and patients who use it for clear medical indications, as in the case of Fidelis Arie Sudewarto and Pika Sasikirana who have been described earlier. Instead of criminalization, recent studies recommend medical rehabilitation schemes under supervision as a more appropriate legal mechanism for patients who use medical marijuana, as this approach maintains the state's control function while fulfilling the right to health without having to go through disproportionate penalties. By integrating this medical-based rehabilitation mechanism as a restrictively regulated exception option, the reconstruction of medical marijuana policy in Indonesia can realize the ideal concept of responsive law, namely a (Maulana & Avrillina, 2024) (Ismansyah et al., 2023) purposive, participatory, and justice-oriented law without losing its legitimacy as an instrument of social control.

Table 2. Five Pillars of Reconstruction of Responsive Law-Based Medical Marijuana Policies

Number	Pillar	Concrete Shape	Embodied Responsive Legal Character
1	Tiered Licensing Scheme	Medical access permits through BPOM, Ministry of Health, and referral hospitals	Purposive reasoning of access based on medical necessity, not absolute prohibition
2	Controlled Distribution	The closed lane is through the hospital/pharmacy pharmacy installation, not the free market	Maintaining the function of social control of narcotics law
3	Standardization of Labeling and Dosage	Follow pharmacological guidelines and national clinical protocols	Legal certainty and patient safety guaranteed
4	Medical Personnel Training and Certification	Doctors and pharmacists are certified as prescribers	Professionalism as a participatory guardian
5	Periodic Reporting and Evaluation	Annual post-legislative scrutiny involves the House of Representatives, academics, and patient groups	Adaptive to social-scientific feedback

Source: Processed by the author year (2026)

The reconstruction offered by the author in this study consists of five pillars which will be described as follows as contained in Table 2. The tiered licensing pillar, for example, places BPOM, the Ministry of Health, and referral hospitals as the single entry point for patients, so that access is not opened freely but is filtered based on clear and verified medical indications. The pillar of controlled distribution

and standardization of dosage then ensures that medical marijuana is treated equally with other controlled drugs, not over-the-counter drugs, while the pillar of training medical personnel makes certified doctors and pharmacists as gatekeepers who at the same time play a participatory role in field supervision. The fifth pillar, namely periodic reporting and evaluation, is the element that most determines the success of the other four pillars, because there is no standardized post-legislative scrutiny mechanism and involves the DPR, academics, and patient groups. Because no matter how good the policy is, it will fall back into the current pattern, namely regulations that are allowed to run without correction even though it is proven to be no longer relevant to social needs. With these five pillars, the reconstruction of medical marijuana policy in Indonesia no longer rests on rigid rules that prohibit total or total liberation, but on a legal design that is (Rongiyati, 2025) purposive, participatory, substantive justice, while at the same time involving institutional cooperation that reflects the ideal concept of Nonet and Selznick's responsive legal theory.

5. Conclusion

Based on the results of the analysis that has been described, this study concludes that the prohibition of the use of medical marijuana in Indonesia, when tested through the Regulatory Impact Analysis (RIA) instrument, has proven to have regulatory failures in many aspects, including cost-benefit inequality, disharmony with the Health Law, and the absence of stakeholder consultations and periodic evaluation mechanisms all reflect the character of an autonomous law that is closed and legalistic. To address these failures, the ideal policy reconstruction must look to Nonet and Selznick's Responsive Legal Theory, which is realized through five interrelated pillars: tiered licensing, controlled distribution, dose standardization, training of medical personnel, and periodic reporting and evaluation, as demonstrated by the policy in Thailand. The implications of these findings affirm the urgency of revising Law Number 35 of 2009 (Narcotics) to accommodate measurable and closely supervised medical exemptions, as well as answering the mandate of open legal policy from Constitutional Court Decisions Number 106/PUU-XVIII/2020 and Number 13/PUU-XXII/2024. This study has limitations because it is normative and does not involve the collection of primary data from patients or related agencies, so it is recommended that the next study be conducted as soon as the results of the government's comprehensive research on medical marijuana are completed to test the effectiveness of the five-pillar reconstruction model proposed in this study in more depth.

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