

The Medical Cannabis Dilemma in Indonesia: Its History, Benefits, and Risks from an Islamic Legal Perspective

Rahmad Setyawan¹, Hayatul Islami², Doli Witro³, Ahmad Mundzir⁴,
Muhammad Asyrofudin⁵

Universitas Islam Negeri Sunan Kalijaga Yogyakarta, Indonesia¹

Universitas Islam Negeri Raden Fatah Palembang, Indonesia²

Universitas Islam Negeri Sunan Gunung Djati Bandung, Indonesia³

Universitas Islam Negeri Wali Songo Semarang, Indonesia⁴

Universitas Islam Negeri Raden Mas Said Surakarta, Indonesia⁵

Corresponding author: rahmads465@gmail.com

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Abstract

The prohibition of cannabis under Indonesian narcotics law has generated continuing debate regarding its potential use for medical treatment. This study aims to examine the legal status of medical cannabis from the perspective of Islamic law and to formulate a governance framework for its limited medical use in Indonesia. This research employs a qualitative normative legal method through statutory, conceptual, and case approaches, supported by literature review and semi-structured interviews with Islamic scholars, legal academics, and healthcare professionals. The findings reveal that Islamic law does not treat medical cannabis through an absolute prohibition paradigm but through a contextual assessment of *maṣlahah* and *mafsadab*. Medical cannabis may be permitted in exceptional circumstances when there is an urgent therapeutic need, scientific evidence of efficacy, no equally effective alternative treatment, and strict medical and governmental supervision. The study further identifies six Islamic bioethical principles relevant to the regulation of medical cannabis, namely protection of life, protection of intellect, public benefit, necessity, harm reduction, and the right to health. Based on these principles, the study proposes a *maqāṣid al-shari'ah*-based governance model emphasizing scientific validation, specialist supervision, patient registration, pharmaceutical control, stakeholder involvement, and periodic risk

assessment. The study concludes that a limited and highly regulated medical cannabis policy is compatible with the objectives of Islamic law and may serve as a basis for future reform of Indonesian narcotics regulation.

Keywords: Medical cannabis, Islamic law, Maqashid sharia, Maslahah, Narcotics law.

Introduction

One issue in Indonesian criminal law that still requires discussion is the use of cannabis to meet medical needs. This is because Indonesia is a country that utilises the law as a means to create public welfare; in other words, the law functions as a guardian of the nation's dignity and honour.¹ Consequently, all legal provisions enacted by the state are intended to regulate and enforce compliance among all citizens.² One example is the regulation concerning cannabis set out in Law No. 35 of 2009 on Narcotics. Article 6(1) explains that cannabis is classified as a Schedule I narcotic, namely a narcotic with a high potential for abuse and no significant medical benefits.³ However, under Article 8 of Law No. 35 of 2009 on Narcotics, the use of Schedule I narcotics is permitted in limited quantities for scientific and technological research, as well as for laboratory reagents and diagnostic purposes. In this regard, however, its implementation must be subject to a licensing mechanism by the Minister upon the recommendation of the Head of the Food and Drug Supervisory Agency.⁴

Furthermore, Article 111 stipulates that any person who cultivates, maintains, possesses, stores, controls or supplies Schedule I narcotics in plant form shall be liable to a term of imprisonment of not less than 4 years and not more than 12 years, as well as a fine of not less than Rp. 800 million and not more than Rp 8 billion.⁵ Consequently, the use of cannabis, which has been classified as a Schedule I narcotic, is not permitted in Indonesia, including its use for medical purposes as stipulated in Article 8 of Law No. 35 of 2009 on Narcotics, which states that Schedule I narcotics may not be used for healthcare purposes.⁶

Historically, there was a petition for a review of Law No. 35 of 2009 on Narcotics against the 1995 Constitution of the Republic of Indonesia, which was

¹Bima Guntara et al., "Decriminalizing Marijuana Use as an Alternative Medical Treatment," *Sinergi International Journal of Law* 2, no. 2 (2024): 148–58, <https://doi.org/10.61194/law.v2i2.160>.

²Lukman Santoso and Yahyanto, *Pengantar Ilmu Hukum Sejarah, Pengertian, Konsep Hukum, Aliran Hukum Dan Penafsiran Hukum* (Setara Press, 2016), 16.

³Section 6(1) of Law No. 35 of 2009 on Narcotics.

⁴Undang-Undang Republik Indonesia, *Undang-Undang Republik Indonesia Nomor 35 Tahun 2009 Tentang Narkotika* (Jakarta, 2009).

⁵Section 111 of Law No. 35 of 2009 on Narcotics.

⁶Section 8 of Law No. 35 of 2009 on Narcotics.

submitted by six petitioners to the Constitutional Court. The petitioners were divided into two groups. First, three mothers, namely Dwi Pertiwi, Santi Warasyuti, and Nafiah Murhayanti, representing their children as Indonesian citizens who felt their constitutional rights had been violated. Second, three private legal entities, namely the Rumah Cemara Association, the Institute for Criminal Justice Reform (ICJR), and the Community Legal Aid Association.⁷

The main subject of the petition filed by the petitioners is a constitutional review of the explanatory notes to Article 6(1)(a) and Article 8(1) of Law No. 35 of 2009 on Narcotics. However, the submission of this petition was rejected by the Constitutional Court, as the body authorised to adjudicate on it. This rejection is set out in Constitutional Court Decision 106/PUU-XVIII/2020.⁸ As a consequence of the rejection of the petition regarding cannabis for medical purposes, the Indonesian public must comply with and be bound by Article 6(1)(a) and Article 8(1) of Law No. 35 of 2009 on Narcotics.

Furthermore, the petition for the legalisation of cannabis for medical purposes can also be examined through Constitutional Court Decision No. 13/PUU-XXII/2024. Here, the Constitutional Court also rejected the petitioner's argument regarding the WHO's recommendation to relax cannabis regulations for medical purposes. In its deliberations, the Constitutional Court affirmed Indonesia's legal sovereignty, which remains defensive, and rejected the ratification of this recommendation, as it considers the adverse effects of cannabis in Indonesia to be far more dominant than its therapeutic value.⁹

Historically, cannabis has been a plant widely used in the past as a traditional medicine and an ingredient in food. The plant contains a psychoactive chemical compound called delta-9 THC, which can affect mental states. Common effects experienced after using cannabis include feelings of euphoria, a sense of calm, and an increased appetite. These effects occur more rapidly when cannabis is smoked and inhaled compared to when it is taken orally. However, the use of high doses of cannabis can trigger acute psychological disorders such as psychosis, delusions, and hallucinations, which can persist for a long time. This is the source of the debate regarding the use of cannabis as an active substance in medical treatment.¹⁰

⁷ Copy of Constitutional Court Decision No. 106/PUU-XVIII/2020.

⁸ Erik Dwi Prasetyo, "Legalisasi Ganja Medis (Analisis Putusan MK Nomor 106/Puu-Xviii/2020)," *Jurnal Analisis Hukum* 5, no. 2 (2022): 147–62, <https://doi.org/10.38043/jah.v5i2.3735>.

⁹ Mahkamah Konstitusi, *Ikhtisar Putusan Perkara Nomor 13/PUU-XXII/2024 Tentang Penggunaan Ganja Medis* (Mahkamah Konstitusi, 2024).

¹⁰ Enik Isnaini, "Penggunaan Ganja Dalam Ilmu Pengobatan Menurut Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika," *Jurnal Independent* 5, no. 2 (2016): 46–54, <https://doi.org/10.30736/ji.v5i2.71>.

The main component of cannabis, THC, has been shown to have medical benefits in certain formulations. The US Food and Drug Administration (FDA) has approved two THC-based medicines, dronabinol (Marinol) and nabilone (Cesamet), which are available in capsule form and prescribed to treat nausea and vomiting in patients following chemotherapy. Furthermore, these medicines are also beneficial for increasing appetite in patients with wasting syndrome caused by AIDS. The Food and Drug Administration (FDA) has also approved the use of Epidiolex, a liquid medicine used to treat epilepsy, including both Dravet syndrome and Lennox-Gastaut syndrome. This medicine contains the active ingredient cannabidiol (CBD), which is extracted from the cannabis plant. In the UK, a cannabis-based oral spray known as nabiximols (Sativex) has also been developed; its use has now been approved and it is currently undergoing clinical trials. Furthermore, in several European countries and Canada, treatments for neuropathic pain combining THC and CBD are beginning to be implemented.¹¹

Several studies have also demonstrated that cannabis has medical benefits. Yusup Sobirin and Ono Sunaryo Mukhlas explain that cannabis and its components can address complex health conditions in Indonesia, such as HIV/AIDS, glaucoma, epilepsy, respiratory health, mental health, cancer, chronic pain, and diabetes.¹² Kevin P. Hill also explains that medical cannabis can be used to treat chronic pain and other medical and psychiatric conditions.¹³ Meanwhile, Edward Maa and Paige Figi also present several cases of medical cannabis use for the treatment of epilepsy.¹⁴ Furthermore, Joan L. Kramer also suggests that medical cannabis can be used for the medical treatment of cancer.¹⁵ From this, it can be seen that the benefits of cannabis in the field of medical care are a proven fact.

Based on the above discussion, it can be concluded that the chemical compounds in cannabis have great potential for use in the medical field. However, this potential does not rule out the possibility of harmful side effects. In the Indonesian context, although cannabis offers significant benefits for healthcare,

¹¹ Mahardian Putranto and Yovita Arie Mangesti, "Penggunaan Ganja Medis Dalam Pengobatan Dan Pengaturannya Di Indonesia," *Journal Evidence of Law* 3, no. 1 (2024): 10–19, <https://doi.org/10.59066/jel.v3i1.582>.

¹² Yusup Sobirin and Oyo Sunaryo Mukhlas, "Pandangan Hukum Islam Terhadap Kemaslahatan Legalisasi Ganja Untuk Medis," *Equality: Journal of Islamic Law (EJIL)* 1, no. 1 (2023): 1–14, <https://doi.org/10.15575/ejil.v1i1.478>.

¹³ Kevin P. Hill, "Medical Marijuana for Treatment of Chronic Pain and Other Medical and Psychiatric Problems: A Clinical Review," *JAMA - Journal of the American Medical Association* 313, no. 24 (2015): 2474–83, <https://doi.org/10.1001/jama.2015.6199>.

¹⁴ Edward Maa and Paige Figi, "The Case for Medical Marijuana in Epilepsy," *Epilepsia* 55, no. 6 (2014): 783–86, <https://doi.org/10.1111/epi.12610>.

¹⁵ Joan L. Kramer, "Medical Marijuana for Cancer," *CA: A Cancer Journal for Clinicians* 65, no. 2 (2015): 109–22, <https://doi.org/10.3322/caac.21260>.

its use in Indonesia has not yet been legally permitted and remains subject to criminal penalties under Law No. 35 of 2009 on Narcotics.

Within the body of Islamic legal thought, this is a topic worthy of further examination, as on the one hand cannabis has medicinal benefits, yet on the other hand its use is prohibited by law. Furthermore, this dilemma raises three important questions: does Islamic Sharia permit the use of cannabis for medical purposes? If cannabis is permitted for medical purposes, what solutions are proposed to regulate such use? Additionally, is it necessary to amend Law No. 35 of 2009 on Narcotics?

In a number of academic references, various studies on medical cannabis for health purposes can be found, which have been discussed by previous researchers from diverse perspectives. For example, Mohamad Erza Alfarizi examined the movement to legalise medical cannabis carried out by the Cannabis Circle Movement in Indonesia.¹⁶ Enik Isnaini examined the use of cannabis for medical purposes under Law No. 35 of 2009 on Narcotics.¹⁷ Meanwhile, Dwi Putri Gunawan examined legislation on the use of cannabis for medical treatment in the form of a law to ensure legal certainty regarding its use.¹⁸ Meanwhile, the study conducted by Irvan Noor Sholikin et al. focuses on a legal review of cannabis exports in accordance with the fatwa of the Indonesian Ulema Council (MUI) and the provisions of Law No. 35 of 2009 on Narcotics.¹⁹ Furthermore, in her research, Rita Komalasari outlines the side effects of medical cannabis use in Parkinson's patients.²⁰

As for international studies on medical cannabis, such as that conducted by Yu-Wei Luke Chu, he examined the impact of medical cannabis use following the legalisation of laws in many US states permitting individuals to use cannabis for medical purposes.²¹ Aaron L. Sarvet et al. conducted a systematic review and meta-analysis of medical cannabis legislation and the impact of medical cannabis

¹⁶ Mohamad Erza Alfarizi, "Gerakan Legalisasi Ganja Medis Di Indonesia (Studi Pada Lingkar Ganja Nusantara)," *Al-Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan* 18, no. 2 (2024): 1152–68, <https://doi.org/10.35931/aq.v18i2.3395>.

¹⁷ Isnaini, "Penggunaan Ganja Dalam Ilmu Pengobatan Menurut Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika."

¹⁸ Dwi Putri Gunawan, "Legislasi Dan Masalah : Studi Pemanfaatan Ganja Untuk Pengobatan Medis," *Ijtihad* 38, no. 1 (2022): 37–52.

¹⁹ Irvan Noor Sholikin et al., "Hukum Ekspor Ganja Menurut Majelis Ulama Indonesia Dan Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika," *Komparatif: Jurnal Perbandingan Hukum Dan Pemikiran Islam* 1, no. 2 (2021): 99–107, <https://doi.org/10.15642/komparatif.v1i2.1925>.

²⁰ Rita Komalasari, "Efek Ganja Medis Pada Pasien Parkinson: A Literature Review of Clinical Evidence," *Journal of Islamic Pharmacy* 8, no. 1 (2023): 44–48, <https://doi.org/10.18860/jip.v8i1.17832>.

²¹ Yu Wei Luke Chu, "The Effects of Medical Marijuana Laws on Illegal Marijuana Use," *Journal of Health Economics* 38 (2014): 43–61, <https://doi.org/10.1016/j.jhealeco.2014.07.003>.

use among adolescents in the United States.²² Meanwhile, Magdalena Cerdá examined medical cannabis laws across 50 states, highlighting the relationship between state-level legalisation of medical cannabis and its use and misuse, leading to cannabis dependence.²³ Meanwhile, Matthew J. Seamon et al. examined medical cannabis and its implications for the role of pharmacists.²⁴ Furthermore, Selim R. Benbadis et al. examined medical cannabis for neurological purposes.²⁵

Given the existence of a wide range of interrelated literature on medical cannabis, it can be concluded that there are various perspectives on how to respond to this issue. Nevertheless, the focus in some earlier literature tends to be on a rigid dichotomy regarding the legality or otherwise of cannabis use in the medical sphere. On the other hand, previous literature has tended to overlook how Islamic law can function as a system within modern regulatory frameworks.

Consequently, this study aims to present the Islamic legal perspective on the use of cannabis for medical purposes by examining its validity as a treatment for a number of diseases commonly suffered by the Indonesian population. Furthermore, this study also examines the *maslahah* (benefit) and *mafsadah* (harm) of medical cannabis in Indonesia, whilst offering an Islamic bioethical framework and a health governance system based on maqashid sharia regarding the use of medical cannabis as a theoretical consideration for the reconstruction of narcotics policy in Indonesia. A critical analysis of the flexibility of Islamic law in addressing the issue of cannabis for medical needs is conducted using the approach of *fiqh* principles and the maqashid sharia.

By definition, *fiqh* principles are general legal principles (*kulliyah*) derived from various *fiqh* issues. These principles are used as a basis for determining the law regarding new issues (*już'iyah*) that have not been explicitly addressed in the *nash*.²⁶ Thus, although not directly, *fiqh* principles are still rooted in the Qur'an and hadith. These principles are formulated through an inductive approach based on

²² Aaron L. Sarvet et al., "Medical Marijuana Laws and Adolescent Marijuana Use in the United States: A Systematic Review and Meta-Analysis," *Addiction* 113, no. 6 (2018): 1003–16, <https://doi.org/10.1111/add.14136>.

²³ Magdalena Cerdá et al., "Medical Marijuana Laws in 50 States: Investigating the Relationship between State Legalization of Medical Marijuana and Marijuana Use, Abuse and Dependence," *NIH Public Access* 120, no. 1 (2012): 22–27, <https://doi.org/10.1016/j.drugalcdep.2011.06.011.Medical>.

²⁴ Matthew J. Seamon et al., "Medical Marijuana and the Developing Role of the Pharmacist," *American Journal of Health-System Pharmacy* 64, no. 10 (2007): 1037–44, <https://doi.org/10.2146/ajhp060471>.

²⁵ Selim R. Benbadis et al., "Medical Marijuana in Neurology," *Expert Review of Neurotherapeutics* 14, no. 12 (2014): 1453–65, <https://doi.org/10.1586/14737175.2014.985209>.

²⁶ Rahmad Setyawan, "Menakar Pencatatan Perkawinan Di Indonesia Perspektif Kaidah Fiqhiyyah: Antara Legalitas Negara Dan Keabsahan Syariah," *Jurnal Al-Hakim: Jurnal Ilmiah Mahasiswa, Studi Syariah, Hukum Dan Filantropi* 6, no. 2 (2024): 199–218, <https://doi.org/10.22515/jurnalalhakim.v6i2.10063>.

the common characteristics of various *fiqh* issues. As for the subject matter of *fiqh* itself, it is the result of the process of *ijtihad* in the science of *ushul al-fiqh*, whose primary sources are the Qur'an and hadith.²⁷ The use of *fiqh* principles is considered relevant in addressing the issue of cannabis as part of medical services in Indonesia. Meanwhile, the maqashid sharia represent the objectives of establishing Islamic regulations aimed at protecting religion (*hifz ad-Din*), life (*hifz an-Nafs*), lineage (*hifz an-Nasl*), intellect (*hifz al-'Aql*), and property (*hifz al-Mal*). Ultimately, this study aims to provide the public with a deeper and more comprehensive understanding of the limits of medical cannabis use according to Islamic law in Indonesia, which from its history and development up to the present day.²⁸

This study is a qualitative research project aimed at analysing the use of cannabis for medical purposes from the perspective of Islamic law and positive law in Indonesia. Research data was obtained through a literature review by compiling various relevant sources, including the Qur'an, Hadith, classical and contemporary *fiqh* texts, fatwas by scholars, legislation, court rulings, books, scientific journal articles, and various academic documents relating to the issues of medical cannabis, Islamic bioethics, and the maqashid sharia. To enrich the analysis and gain a more comprehensive understanding of the development of the discourse on medical cannabis in Indonesia, this study is also supported by interview data with a number of scholars, Islamic legal academics, and healthcare professionals who were purposively selected based on their expertise and involvement in contemporary Islamic legal and health issues. The interviews were conducted using semi-structured guidelines and served as supporting data to strengthen the interpretation of the findings obtained from the literature review.

This study employs a normative legal approach by examining various legal norms, doctrines, and principles relating to the use of medical cannabis. Analysis was conducted through a statutory approach, a conceptual approach, and a case approach. The collected data were analysed qualitatively using a descriptive-analytical method through a process of grouping, interpretation, and systematic examination of various relevant sources. The research analytical framework was constructed through the integration of *fiqh* principles, Islamic bioethics, and the maqashid sharia to assess the legal status of medical cannabis use based on considerations of its benefits and harms. To ensure the validity and consistency of the findings, cross-checking was carried out between Islamic legal sources, national regulations, court rulings, academic literature, and interview data, thereby yielding a comprehensive and academically accountable analysis.

²⁷ Ahmad Rajafi, "The Contemporary Ushul Fiqh in Indonesia: An Idea and Practice," *Jurnal Ilmiah Al-Syir'ah* 21, no. 1 (2023): 19–34, <https://doi.org/10.30984/jis.v21i1.2260>.

²⁸ Bambang, "Ijtihad and the Dynamics of Islamic Legal Interpretation: An Epistemological Exploration in the Contemporary Context," *Nusantara: Journal of Law Studies* 3, no. 1 (2024): 56–67, <https://doi.org/10.5281/zenodo.17373912>.

Discussion

The History of Policies on Cannabis and Intoxicating Substances in Indonesian Law and Islamic Law

The history of cannabis use in Indonesia has deep roots and can be traced back to ancient times. Various historical sources indicate that the plant was known in the ancient medical traditions of China, India and the Mesopotamian civilisation. Records found in these manuscripts indicate that cannabis was utilised not only as a medicinal ingredient, but also as a food component and a tool in various ritual practices.²⁹ Etymologically, the term ‘ganja’ is believed to originate from the Sumerian languages, specifically ‘Gan-Zi’ and ‘Gun-Na’, which, over time, underwent phonetic changes to become the term known today.³⁰

In the Indonesian context, the history of cannabis is closely linked to the large-scale commercialisation of raw opium (ruw opium) carried out by the colonial government from the 17th century onwards. This activity was subsequently institutionalised through a trade monopoly system officially managed by the colonial authorities. By the early 19th century, opium imports amounting to tens of thousands of kilograms per year, were processed with various local mixtures to suit domestic consumer preferences. The practice of opium smoking subsequently developed into a widespread social and cultural phenomenon in the northern coastal urban areas of Java, as well as in inland regions such as Surakarta and Yogyakarta.

Nevertheless, the spread of opium consumption did not proceed without obstacles. The strong influence of Islamic religious values within the local community gave rise to various forms of resistance to the practice. In response to this situation, the Dutch East Indies government undertook a restructuring of the opium regulatory system in the early 20th century. This measure aimed to control illegal trafficking, reorganise distribution mechanisms, and mitigate the health impacts caused by opium consumption within the community.³¹

As society became increasingly modern, cannabis was used for medical purposes. Nevertheless, policies regarding the use of cannabis for medical

²⁹Muh. Fachri Syarif Hidayatullah et al., “Kriminalisasi Pohon Ganja Di Indonesia,” *Legal Dialogica* 1, no. 1 (2022): 1–10.

³⁰Muhammad Zainul Muttaqien, “Pandangan Masyarakat Aceh Tentang Penggunaan Ganja,” *Syntax Admiration* 5, no. 10 (2024): 3901–13, <https://doi.org/10.46799/jsa.v5i10.1540>.

³¹Ardhi Subandri et al., *Menumpas Bandar Menyongsong Fajar: Sejarah Penanganan Narkotika Di Indonesia* (Prenada Media, 2022). pp. 13–17.

purposes remain a subject of debate in various countries, including Indonesia.³² This is reflected in the findings of a study conducted by Xena Dora Thea Bening, which compared the similarities and differences in cannabis regulations between Indonesia, the Netherlands, and California.³³ This is because the Netherlands and California are two countries that have legalised cannabis for both medical and recreational use.³⁴

Regulations regarding the legalisation of cannabis also apply in Turkey, a country with a deeply Islamic background. These policies are strictly regulated through the Law on the Control of Narcotic Substances (Law No. 2313), the Turkish Penal Code No. 5237, and specific regulations governing the cultivation of hemp, namely the Regulation on the Cultivation and Control of Hemp. In terms of law enforcement, the Turkish government also applies strict criminal provisions for all forms of illegal activities related to the plant as mentioned above. Under Article 187 of the Turkish Penal Code, anyone who produces or sells narcotics without a licence faces a prison sentence of between 1 and 5 years and a judicial fine. Furthermore, these legal sanctions are increased by a third if the offence is committed by a medical professional, such as a licensed doctor or pharmacist.

Despite enforcing strict criminal laws, Turkey has, in this regard, demonstrated openness towards the use of cannabis-like plants for medical and industrial purposes since 2016. The Turkish government officially permits the use of cannabis to meet medical needs for certain health conditions, provided it is subject to very strict supervision. Furthermore, the Turkish Ministry of Agriculture has also granted flexibility by permitting the production of industrial cannabis, specifically for the use of its fibres, seeds and stems, in 19 selected provinces through a special licensing mechanism. Outside these legal provisions and authorised areas, any form of cannabis cultivation without a licence remains a criminal offence and the plants will be immediately destroyed by the authorities.³⁵

³² Widi Asmoro and Palupi Lindiasari Samputra, "Analisis Naratif Kebijakan: Kebijakan Ganja Medis Di Indonesia," *Matra Pembaruan* 5, no. 1 (2021): 13–24, <https://doi.org/10.21787/mp.5.1.2021.13-24>.

³³ Xena Dora Thea Bening, "Cannabis Policy Formulation from the Perspective of Criminal Law Policy in Indonesia in the Future" (Thesis, Gadjah Mada University, 2019), pp. !–!!.

³⁴ Aristo Pangaribuan, "Dinamika Kebijakan Ganja Dalam Politik Hukum Global Dan Indonesia," *Jurnal Hukum & Pembangunan* 54, no. 1 (2024): 31–48, <https://doi.org/10.21143/jhp.vol54.no1.1583>.

³⁵ Yayi Intan Pratiwi et al., "Cannabis Regulation: A Comparative Study in Indonesia, Turkey, and Morocco," *Kosmik Hukum: Fakultas Hukum Universitas Muhammadiyah Purwokerto* 23, no. 1 (2023): 103–14, <https://doi.org/10.30595/kosmikhukum.v23i1.18888>.

In line with Turkey's cannabis regulations, Morocco is also one of the world's largest cannabis producers (primarily in the form of *hashish* and *keif*). This is because Morocco has a long history and deep cultural ties to the cannabis plant, particularly in the Rif region (Northern Morocco). Indeed, for centuries, cannabis has been part of local traditions and alternative medicine for the local population. However, within the modern legal landscape, Morocco had previously imposed strict bans on the production, distribution, and consumption of cannabis to comply with the UN Single Convention on Narcotic Drugs. These provisions sparked significant social tension, with tens of thousands of local farmers living under the shadow of arrest warrants and the threat of imprisonment for illegally growing cannabis to make ends meet.

However, a regulatory turning point in Morocco occurred in June 2021, when the Moroccan parliament officially passed a new law legalising and regulating the cultivation of cannabis specifically for medical, cosmetic, and industrial purposes. This progressive step was taken as part of the government's efforts to open up new economic opportunities in the medical industry and to organise the supply chain to be more transparent and structured. Nevertheless, this legal reform comes with very strict and clear limitations. This is because the Moroccan government continues to enforce a strict ban on the production and use of cannabis for recreational purposes.³⁶

In Indonesia itself, the issue of cannabis use for medical purposes continues to elicit mixed reactions amongst the public. On the one hand, cannabis is considered to have potential benefits in the medical field to support public health against certain types of illness. On the other hand, the misuse of cannabis without strict supervision can lead to dangerous consequences, meaning its use may be subject to criminal penalties in accordance with applicable laws.³⁷ It is this ambiguity that has fuelled the increasingly intense debate surrounding medical cannabis within the contexts of law, health and religion in Indonesia.³⁸

Strictly speaking, cannabis is commonly known as *Cannabis Sativa* Syn, a plant containing substances that can produce psychoactive effects, euphoria (a prolonged sense of pleasure), and increased appetite. Furthermore, excessive use of cannabis can also produce effects that tend to be the opposite, such as anxiety, fear and overwhelming panic. Cannabis can also cause psychosis, hallucinations,

³⁶ Henny Saida Flora and Henry Aspan, "Conditional Release for Convictors of Narcotics Crimes From The Perspective of Indonesian Criminal Law," *Human Rights et Justicia* 1, no. 1 (2025): 12–26, <https://doi.org/10.70742/hrj.v1i1.518>.

³⁷ Flora and Aspan, "Conditional Release for Convictors of Narcotics Crimes From The Perspective of Indonesian Criminal Law."

³⁸ Firda Zahrah and Taun, "Pro Kontra Legalisasi Ganja Di Indonesia Dalam Perspektif Hukum Pidana," *Jurnal Hukum* 20, no. 1 (2023): 1829–8117.

delusions and acute addiction or dependence in excessive users.³⁹ Acute addiction in users can lead to both physical and psychological symptoms when use is suddenly reduced or stopped.⁴⁰

When discussing cannabis, it cannot be separated from the topic of narcotics as regulated in Article 1(1) of Law No. 35 of 2009 on Narcotics. By definition, narcotics are defined as substances or drugs, whether derived from plants or not, produced synthetically or semi-synthetically. These substances have the effect of altering consciousness, eliminating certain sensations, alleviating or eliminating pain, and can lead to dependence in users.⁴¹

Section 6(1) of Law No. 35 of 2009 on Narcotics classifies narcotics into three categories. First, Category I narcotics, which are types of narcotics with a very high potential to cause dependence. The use of narcotics in this category is prohibited, except for scientific purposes, as stipulated in Article 8(1) of Law No. 35 of 2009 on Narcotics. Some examples of narcotics in this category that are frequently abused include heroin, cocaine and cannabis. Second, Schedule II narcotics, as set out in Article 6(1)(b) of Law No. 35 of 2009 on Narcotics. Narcotics in this category may be used for scientific purposes and also for medical treatment, although only as a last resort. Examples of narcotics in this category include amphetamine, methamphetamine, and poppers. Third, Class III narcotics, which are types of narcotics that produce sensory effects on the central nervous system that are not in line with external stimuli. Examples of this type include ketamine and psilocybin mushrooms. The provisions regarding this class are set out in Article 6(1)(c) of Law No. 35 of 2009 on Narcotics.

With regard to cannabis used for medical purposes, it falls under the category of Class I narcotics, the use of which is expressly prohibited by Law No. 35 of 2009 on Narcotics. Article 8(1) of the Act stipulates that Schedule I cannabis may not be used in healthcare services. This indicates that the use of cannabis, even in a medical context, is still considered a violation and is subject to penalties in accordance with applicable regulations. Article 111 stipulates that anyone who cultivates, maintains, possesses, stores, controls or supplies Schedule I narcotics in plant form may be sentenced to a minimum of 4 years' imprisonment and a maximum of 12 years, as well as a fine ranging from IDR 800 million to IDR 8 billion.⁴² Meanwhile, Article 112 states that anyone who possesses, stores, controls or supplies Schedule I narcotics in a non-plant form is liable to a prison sentence

³⁹ Nur Arfiani and Indah Woro Utami, "Penggunaan Ganja Medis Dalam Pengobatan Rasional Dan Pengaturannya Di Indonesia," *Jurnal Hukum Dan Etika Kesehatan* 2, no. 1 (2022): 56–68, <https://doi.org/10.30649/jhek.v2i1.45>.

⁴⁰ Article 1(13) of Law No. 35 of 2009 on Narcotics.

⁴¹ Article 1(1) of Law No. 35 of 2009 on Narcotics.

⁴² Section 111 of Law No. 35 of 2009 on Narcotics.

of at least 4 years and at most 12 years, as well as a fine ranging from Rp. 800 million to Rp. 8 billion.⁴³

The Law No. 35 of 2009 on Narcotics also sets out penalties for users of Schedule I narcotics. For anyone who uses Schedule I narcotics, Article 116 of Law No. 35 of 2009 on Narcotics stipulates a prison sentence of a minimum of 5 years and a maximum of 15 years, as well as a fine ranging from Rp. 1 billion to Rp. 10 billion.⁴⁴ As for those who misuse Class I narcotics, they may face a maximum prison sentence of 4 years. Meanwhile, victims of misuse are required to undergo rehabilitation, both medical and social.⁴⁵

From an Islamic legal perspective, there are indeed no provisions that explicitly address cannabis, either in the Qur'an or the Hadith. However, Islamic law places a firm emphasis on intoxicating substances (*muskir*) by referring to the prohibition of *khamr* (which must be avoided). In this regard, Allah the Almighty states in Surah al-Maidah (5): 90 as follows:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ

“O you who have believed, indeed, intoxicants, gambling, [sacrificing on] stone alters [to other than Allah], and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful.”

According to Sheikh Abu Bakar Utsman bin Muhammad Syatha' Ad-Dimyati, etymologically, *khamr* refers to a drink derived from the juice of grapes. However, in the context of Islamic law, the term *khamr* encompasses all forms of intoxicating substances (*muskir*). This definition is in line with the opinion of Ibn Abbas, who stated that *khamr* is any type of drink that causes intoxication.⁴⁶ Thus, anything that produces an intoxicating effect, whether derived from grapes or other materials, falls within the category of *khamr*. This is as affirmed in the saying of the Prophet Saw. as follows:⁴⁷

كُلُّ مُسْكِرٍ حَمْرٌ وَكُلُّ حَمْرٍ حَرَامٌ

“Everything that is intoxicating is *khamr*, and every *khamr* is haram.”

⁴³ Section 111 of Law No. 35 of 2009 on Narcotics

⁴⁴ Section 116 of Law No. 35 of 2009 on Narcotics.

⁴⁵ Section 127 of Law No. 35 of 2009 on Narcotics.

⁴⁶ Muhammad Ali Ash-Shobuni, *Shofwat At-Tafasir*, Jilid 1 (Dar Ash-Shabuni li Al-Thba'ah wa An-Nasyr Wa at-Tawzi', 1997).

⁴⁷ Abu Daud Sulaiman bin al-Asy'at As-Sijistani, *Sunan Abi Daud*, Juz 2 (Dar al Kutub al Ilmiah, n.d.).

Thus, the legal rationale (*illat*) that renders *kehamr* of *haram* is its intoxicating nature (*iskear*). Although there are no explicit provisions regarding cannabis in the text of the Qur'an and the hadith, substantively cannabis shares the same characteristics as *kehamr*, namely that it produces an intoxicating effect. Therefore, to determine the ruling on cannabis, the method of *qiyas* may be employed.⁴⁸ By definition, *qiyas* is the process of determining the ruling on a subsidiary issue by referring to the ruling on the principal issue based on the similarity of the *'illat* or legal rationale.⁴⁹ When using the *qiyas* method to determine a ruling, four key elements must be fulfilled, namely: *al-Asbl* (the original case), *bukmu al-Asbl* (the ruling on the original case), *al-Far'u* (the new case), and *'illat* (the legal rationale that constitutes the point of similarity between the two).⁵⁰

In detail, *kehamr*, which already has a legal ruling based on the text, serves as *al-Asbl* that is, the original case in the process of deriving legal rulings based on *'illat*. The ruling of *al-Asbl* in this instance is the prohibition of *kehamr*. Meanwhile, cannabis constitutes *al-Far'u*, that is, a new case for which the ruling has not been explicitly determined in the text, but which shares the same *'illat* as *kehamr*, namely its intoxicating nature (*iskear*). Due to this similarity in *'illat*, the ruling on cannabis is equated with that of *kehamr* through the mechanism of *qiyas*. Therefore, from the perspective of Islamic law, the use of cannabis is neither permitted nor prohibited.

Apart from its intoxicating effects, cannabis use also causes various negative impacts, whether psychological, medical, or social and economic. From a psychological or medical perspective, heavy cannabis users will experience inner conflict and physical distress when attempting to stop using it. Furthermore, cannabis is often regarded as a primary source of various forms of social crime, which ultimately contributes to economic conditions.⁵¹ This aligns with the view of al-Syarbasyi, who states that cannabis falls under the category of *kehamr* in the principles of Islamic jurisprudence due to its similarity in terms of effects that can cloud and weaken the function of reason.⁵²

Fiqh Principles Regarding Treatment with Prohibited Substances

The development of the medical world in the modern era has progressed at a rapid pace. In daily life, people are faced with various types of illnesses, both

⁴⁸ M. Noor Harisudin, *Ilmu Ushul Fiqih* (Setara Press, 2021).

⁴⁹ Ali Sodikin, *Fiqh Ushul Fiqh* (Beranda Publishing, 2013).

⁵⁰ Abu Mu'ad and Muhammad Thoha Al-Arba'in, *Tashil Al-Wushul Ila Bayani Lubb Al-Ushul*, Cetakan 1 (Al-Maktabah Al-Anwariyyah Li At-Thoba'ah wa An-Nasyr wa At-Tawri', 2019).

⁵¹ Hamidullah Mahmud, "Hukum Khamr Dalam Perspektif Islam," *MADDIKA : Journal of Islamic Family Law* 1, no. 1 (2020): 28–47, <https://doi.org/10.24256/maddika.v1i1.1559>.

⁵² Nurul Irfan and Masyrofah, *Fiqih Jinayah* (Amzah, 2015).

minor and serious. This situation drives people to continually seek diverse treatment methods as solutions to these health issues. It is not surprising that various new treatment approaches have emerged alongside the emergence of modern diseases. For example, in France, sailors are known to have used urine as a means of maintaining the health of their teeth and gums, as urine was believed to contain substances capable of preventing the onset of various diseases.⁵³ In Indonesia itself, some types of medicine, such as cough medicines sold in shops, are known to contain alcohol. Indeed, alcohol is also found in the majority of cough medicines in various countries.⁵⁴

In such circumstances, it is important for us to conduct an in-depth analysis of such issues, in order to formulate solutions that are practical and capable of adapting to developments in the discourse of Islamic law. Naturally, when formulating provisions of Islamic law, the Qur'an serves as the primary source of reference for establishing legal rulings. If a legal provision is not found in the Qur'an, then the Prophet's hadith becomes the secondary source.⁵⁵ If neither of these sources provides a clear answer, one must then examine whether the *mujtahids* of a particular era ever reached a consensus (*ijma'*) regarding the ruling. If a legal provision is found, that ruling is implemented. However, if no such provision is found, one must engage in *ijtihad* by applying *qiyas* to existing legal provisions.⁵⁶

Regardless of the method of deriving legal rulings outlined above, there are *fiqhbiyyah* principles that can serve as tools in deriving Islamic legal rulings for which no answer yet exists. Linguistically, the term '*fiqhbiyyah* principle' is a combination of two words: '*kaidah*' and '*fiqhbiyyah*', each of which has its own distinct meaning. '*Kaidah*' means a foundation or primary basis. Meanwhile, '*fiqhbiyyah*' derives from the word '*al-Fiqh*', which implies a deep understanding and is prefixed with the letter '*ya*' (of the genitive case) to denote a category or type.⁵⁷ Thus, '*kaidah fiqhbiyyah*' can be understood as a fundamental principle or general

⁵³ Endri Yenti, "Berobat Dengan Benda Haram Dalam Perspektif Islam," *Al-Iryad: Jurnal Bimbingan Dan Konseling Islam* 1, no. 2 (2018): 137–46, <https://doi.org/10.15548/jbki.v1i2.139>.

⁵⁴ Bakhri, Syamsul. 2022. "Assessing the Halal Status of Medical Medicines Containing Alcohol." OSF Preprints. 27 August. doi:10.31219/osf.io/vzps3.

⁵⁵ Rahmad Setyawan et al., "Contemporary Ijtihad Deconstruction in the Supreme Court: Wasiat Wajibah as an Alternative for Non-Muslim Heirs in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (2024): 25–40, <https://doi.org/10.30984/jis.v22i1.2968>.

⁵⁶ Nur Sodik et al., "Reconstruction of Legal Subjects in Ushul Al-Fiqh: Development and Interconnectivity Analysis in the Contemporary Era," *Al-Syakhsyiyah: Journal of Law and Family Studies* 7, no. 2 (2025): 73–92, <https://doi.org/10.21154/syakhsyiyah.v7i2.9875>.

⁵⁷ Al-Raghib Al-Ashfahani, *Al-Mufradat Fi Gharib Al-Qur'an* (Mustafa al-Babi al-Halabi, 1961).

framework for comprehensively understanding and addressing issues of Islamic law.⁵⁸ In dilemmatic situations, such as the use of medicines containing substances prohibited under Islamic sharia, *fiqhiyyah* principles can provide a dynamic and adaptive direction in formulating legal rulings. By adhering to these *fiqhiyyah* principles, Muslims can strike a balance between medical necessity and adherence to sharia principles.

It cannot be denied that the escalation of this dilemma regarding the use of prohibited substances has reached its peak as contemporary medical discourse has begun to address the topic of the legalisation of medical cannabis for therapeutic purposes. Unlike the issue of alcohol in cough medicines or urine, where opposition tends to be consistent, the issue of medical cannabis presents a far more multidimensional complexity. On the one hand, it holds the promise of a cure for sufferers of serious clinical conditions such as HIV/AIDS, glaucoma, epilepsy, respiratory and mental health conditions, cancer, chronic pain and diabetes; on the other hand, it also faces a formidable wall of sociological concerns in the form of the risk of substance abuse and the weakness of state oversight mechanisms.⁵⁹ Such a complex empirical reality logically necessitates a space for reasoning that is not merely confined to normative texts. At the same time, however, the discourse on Islamic law is also required to evolve towards a more holistic approach under the broad umbrella of Islamic bioethics.

Islamic bioethics is a branch of Islamic ethical thought that addresses moral, legal, and humanitarian issues in the fields of health, medicine, biotechnology, and life sciences based on the principles of Sharia. In this regard, Islamic bioethics is not merely oriented towards determining the *halal-haram* status of a medical procedure (legitimation), but it also strives to safeguard human welfare, protect life, and mitigate harm in the development of modern health sciences (social engineering).⁶⁰

In the context of cannabis for medical purposes, Islamic bioethics is important because the issue of cannabis for medical services cannot be resolved solely through a normative approach regarding the prohibition of intoxicating substances. Furthermore, the use of cannabis for medical purposes also presents an ethical tension between the protection of patients' health, the risk of drug abuse, the constitutional right to healthcare, and the state's duty to maintain social

⁵⁸ Duski Ibrahim, *Al-Qowa'id Al-Fiqhiyyah (Kaidah-Kaidah Fiqih)* (CV. Amanah, 2019).

⁵⁹ Sobirin and Mukhlas, "Pandangan Hukum Islam Terhadap Kemaslahatan Legalisasi Ganja Untuk Medis."

⁶⁰ Nur Aqila Mohd Zahari and Mohd Hafiz Safiai, "Maqasid Sharia and the Biomedical Ethics of E-Cigarettes: A Contemporary Islamic Legal Assessment," *MILRev: Metro Islamic Law Review* 4, no. 1 (2025): 295–318, <https://doi.org/10.32332/milrev.v4i1.10398>.

order and public morality. Therefore, an Islamic bioethical approach is required to balance these various interests proportionately.⁶¹

Thus, the use of *fiqh* principles, in this context, serves not merely as a reference for legitimising normative Islamic legal texts, but also as an adaptive Islamic bioethical methodology for formulating practical solutions to the evolving discourse of contemporary medicine.

One relevant *fiqh* principle in this regard is as follows:⁶²

الضَّرُّ يُزَالُ

“Harm must be removed.”

This principle is derived from the hadith of the Prophet Saw., which states that it is not permitted to cause harm to oneself and that it is forbidden to cause harm to others.⁶³ This *fiqh* principle aims to realise the maqashid sharia by rejecting corruption (*mafsadah*), namely by eliminating or at least reducing harm.⁶⁴ In the context of the use of prohibited substances, this principle indicates that the use of a prohibited substance may be permitted if necessary to prevent a greater harm, such as a situation where failure to take a medicine made from a prohibited substance could result in death or loss of life (*halak*). However, the use of a prohibited substance to eliminate harm is limited to methods or means that do not result in further harm. This means that the use of cannabis for medical purposes must not exceed the limits determined by medical experts. This is based on the *fiqh* principle:

الضرر لا يزال بالضرر

“Harm (*madharat*) must not be removed by another harm”

Nevertheless, the aspect of averting harm is of such necessity (*bajat*) that it takes precedence over the pursuit of benefit. This is based on the following statement by Izzudin bin Abdusalam:

جَلْبُ الْمَصَالِحِ وَدَرْءُ الْمَفَاسِدِ

⁶¹ Ali Abubakar et al., “The Integration of Fiqh and Science: The Pork Element in the Medical Fatwa’s of the Indonesian Ulema Council,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 3 (2025): 1680–705, <https://doi.org/10.22373/sjhk.v9.i3.31976>.

⁶² Ali Ahmad An-Nadwi, *Al-Qawaid al-Fiqhiyyah* (Dar al-Qalam, n.d.).

⁶³ Najmuddin Ath-Thufi, *Syarh Arba’in* (al-Maktabah al-Makkiyyah, n.d.).

⁶⁴ Sukataman et al., “Maqāṣid Al-Sharī’ah and the Prohibition of Incest in Indonesian Legislation: An Analysis of the Protection of Lineage and Public Morals,” *Al-Manahij: Jurnal Kajian Hukum Islam*, September 18, 2025, 205–26, <https://doi.org/10.24090/mnh.v19i2.14989>.

“Seeking benefit and averting harm”

According to Izzuddin, the entire Sharia is a matter of public interest, whether by seeking public interest or repelling harm. He established the principle of seeking public interest and repelling harm as the primary source for the application of Islamic law. Islamic law must be based on the principle of seeking public interest and repelling harm. If this principle is further summarised, then according to Izzuddin, the most important aspect is repelling harm.⁶⁵ Thus, if both are equally numerous and strong, then averting harm is given priority over seeking benefit, for averting harm is certainly a benefit in itself. This principle is in accordance with the following *fiqh* principle:⁶⁶

دَفْعُ الْمَفَاسِدِ مُقَدَّمٌ عَلَى جَلْبِ الْمَصْلِحِ

“Avoiding harm takes precedence over seeking benefit”

As for some worldly benefits and worldly harms, these can be discerned through sound reason, experience and human customs (*‘adat*). However, worldly and otherworldly benefits, as well as worldly and otherworldly harms, cannot be known except through Islamic sharia, namely through valid sharia evidence such as the Qur’an, Hadith, consensus (*ijma*), recognised analogy (*qiyas*), and sound public interest (*istislah*).⁶⁷

In addition to the above *fiqh* principles, there are several other *fiqh* principles derived from the Prophet’s hadiths which explain that it is not permitted to cause harm to oneself and that it is forbidden to cause harm to others. Among these are the following:

الضَّرُورَاتُ تُبِيحُ الْمَحْظُورَاتِ

“Necessity permits what is otherwise forbidden”

Among scholars, an emergency situation that permits a person to do things that are otherwise prohibited is one that meets the following conditions. Firstly, the emergency must threaten life and/or physical well-being. This is based on the provisions of Surah Al-Baqarah [2]: 177, Surah Al-Maidah [5]: 105, and Surah Al-An’am [6]: 145, all of which are aimed at preserving life. It appears that all prohibited acts are permitted in order to uphold the maqashid sharia, for if, in an emergency, the prohibited act were not permitted, the very existence of the maqashid sharia would be threatened. Secondly, the emergency must be limited to what is strictly necessary, meaning it must not exceed reasonable bounds.

⁶⁵ Izzuddin Ibn Abdussalam, *Qawa'id al-Abkam Fi Masalih al-Anam* (Dar al-Qolam, n.d.).

⁶⁶ A. Djazuli, *Kaidah-Kaidah Fikih* (Prenadamedia Group, 2019).

⁶⁷ Djazuli, *Kaidah-Kaidah Fikih*.

Thirdly, there must be no other lawful alternative except by performing the prohibited act. Based on the above principle, under normal circumstances, the use of *haram* substances such as medical cannabis, alcohol, animal organs not slaughtered in accordance with Islamic law, or pork-derived ingredients is not permitted. However, if a person is in an emergency situation, such as a severe illness, and the only effective or available treatment contains a *haram* substance, its use is permitted to the extent necessary under this principle.⁶⁸

Furthermore, there is a *fiqh* principle relating to the limitations on what is permitted in an emergency, namely as follows:

ما أُبِيحَ لِلضَّرُورَةِ يُقَدَّرُ بِقَدْرِهَا

“What is permitted due to necessity is limited to the extent of that necessity”

The above *fiqh* principle essentially restricts people from doing something that is forbidden in an emergency. As has been explained, performing something that is *haram* due to an emergency must not exceed the limit, but only to the extent necessary.⁶⁹ If applied to the issue of *haram* substances used for treatment or their methods, then based on the above principle, medicine containing *haram* substances is permitted only to the extent strictly necessary and in emergency situations, such as the loss of life or the damage to a limb.

Considering *Maṣlaḥah* and *Mafsadah*: Islamic Bioethics and Health Governance based on Maqashid sharia regarding Medical Cannabis in Indonesia

From the perspective of Islamic law, cannabis is a new phenomenon, as it is not explicitly mentioned in the texts, neither in the Qur’an nor in the hadith. The legal ruling on cannabis in Islamic law is the result of *ijtihad* by scholars using the *qiyas* method, by likening cannabis to *ksamr*, as both share the same illat, namely the impairment of reason. *Khamr* itself is a substance that is explicitly prohibited based on evidence from the Qur’an and the hadith. In the early days of Islam, *ksamr* was once permitted; however, due to its destructive effects particularly in terms of intoxication and the impairment of rational faculties it was eventually prohibited. This prohibition aligns with the primary objectives of the application of Islamic Sharia, known as the maqasid asy-Syariah.⁷⁰ These objectives encompass the protection of five key aspects: *hifz ad-Din* (preserving

⁶⁸ Djazuli, *Kaidah-Kaidah Fikih*.

⁶⁹ Djazuli, *Kaidah-Kaidah Fikih*.

⁷⁰ Herliana Herliana, “Maqasid Al-Sharia in Court-Mediation Reform: A Study on Efficiency and Social Justice in Medical Disputes,” *De Jure: Jurnal Hukum Dan Syaria* 15, no. 2 (2023): 214–29, <https://doi.org/10.18860/j-fsh.v15i2.23962>.

religion), *hifẓ an-Nafs* (preserving life), *hifẓ an-Nasl* (preserving lineage), *hifẓ al-'Aql* (preserving reason), and *hifẓ al-Mal* (preserving wealth).⁷¹

As human life continues to evolve, particularly in the fields of health, technology and society, cannabis is increasingly recognised as a plant with a significant role in the medical world. Not only does it serve as a remedy, but cannabis is also known to alleviate various symptoms of specific conditions, such as HIV/AIDS, glaucoma, epilepsy, respiratory health, mental health, cancer, chronic pain and diabetes.⁷² Consequently, cannabis holds potential benefits as an alternative in the treatment of these various conditions. In several predominantly Muslim countries, such as Turkey and Morocco, medical cannabis has been legalised for therapeutic purposes regarding specific conditions,⁷³ such as epilepsy, chronic pain, or neuropathic disorders, amongst others.⁷⁴

However, in Indonesia, cannabis is still classified as a Schedule I narcotic, the use of which is strictly restricted, and even prohibited for medical purposes.⁷⁵ This is due to the danger of structural and cultural neglect regarding the risks of cannabis use, which can trap analysis in a bias of medical optimism. Clinically, whilst the CBD content in cannabis may be effective in treating certain conditions, the high levels of Tetrahydrocannabinol (THC) in cannabis also possess potent psychoactive properties that can impair cognitive and motor functions, and some users report a risk of dependence.⁷⁶

This raises a complex debate, particularly when there are patients in urgent need of cannabis-based treatment who cannot find any other effective alternatives. This situation presents a dilemma in its own right, from legal, health and religious perspectives.⁷⁷ From the perspective of *fiqh*, which is the practical

⁷¹ Ilham Abdi Prawira et al., “The Paradigm Shift of Maqāṣid Al-Syarī’ah in Contemporary Society: From Protection to Development,” *Academica: Journal of Multidisciplinary Studies* 9, no. 2 (2025): 22–32, <https://doi.org/10.22515/academica.v9i2.14126>.

⁷² Sobirin and Mukhlas, “Pandangan Hukum Islam Terhadap Kemaslahatan Legalisasi Ganja Untuk Medis.”

⁷³ Pratiwi et al., “Cannabis Regulation: A Comparative Study in Indonesia, Turkey, and Morocco.”

⁷⁴ Nur Arfiani and Indah Woro Utami, “Penggunaan Ganja Medis Dalam Pengobatan Rasional Dan Pengaturannya Di Indonesia.”

⁷⁵ Zahrah and Taun, “Pro Kontra Legalisasi Ganja Di Indonesia Dalam Perspektif Hukum Pidana.”

⁷⁶ Mila Mauludia et al., “Pandangan Tenaga Kesehatan Dan Ulama Terhadap Penggunaan CBD (Cannabidiol) Atau Ganja Sebagai Pengobatan Medis,” *Jurnal Kesehatan Tambusai* 6, no. 2 (2025): 9236–46, <https://doi.org/10.31004/jkt.v6i2.45630>.

⁷⁷ Ali Sodikin, “Religion and Science: Analysing Medical Fatwas of the Majelis Ulama Indonesia (2010–2021),” *Journal of Islamic Law* 6, no. 1 (2025): 1–20, <https://doi.org/10.24260/jil.v6i1.2683>.

application of Islamic law, an important question arises: does Islamic Sharia permit the use of cannabis for medical purposes?

In the *qiyas* method, cannabis is often treated in the same way as alcohol because both share a common *'illat* (legal rationale), namely that they can both impair (damage) the mind. However, if cannabis is used for other purposes with a different *'illat*, then its legal status may change according to the context and purpose. For example, the use of cannabis in the medical field, which provides benefits and can even save lives, clearly means that in this context cannabis no longer shares the same *'illat* as alcohol. Indeed, in this instance, cannabis actually brings about public benefit. Therefore, the legal status of cannabis for medical purposes will differ from that of cannabis which is misused.

A number of studies on cannabis have indicated that there are two main compounds with potential medicinal use: Cannabinoid (CBD) and Tetrahydrocannabinol (THC). CBD is known to have a wide range of medical benefits. The World Health Organisation (WHO) states that the use of CBD as a medicine is considered safe. Indeed, the WHO Expert Committee notes that CBD does not cause dependence, does not produce intoxicating effects, and does not pose a risk to public health. As for THC, it is a substance that can induce a sense of euphoria and has benefits in stimulating appetite, as well as helping to reduce pain and nausea.⁷⁸

In classical *fiqh* literature, the imams of the schools of thought, such as Imam Shafi'i, Imam Hanbali, and Imam Maliki, did not specifically address the ruling on cannabis (*hashish*), as during their time, the issue of cannabis was either unknown or had not yet become a topic of discussion. However, later scholars offered various perspectives regarding cannabis. Among them, Imam Zarkasyi, al-Hafiz Zayn ad-Din al-Iraqi, and Ibn Hajar al-Asqalani from the Shafi'i school, as well as Ibn al-Qayyim al-Jawziyyah from the Hanbali school, held the view that cannabis is treated like alcohol because it has an intoxicating effect. Therefore, according to them, the use of cannabis is prohibited.⁷⁹

Nevertheless, some scholars within the Shafi'i school hold a different view. One of them is Zainudin al-Malibari, who cites the opinions of his two teachers. Zainudin al-Malibari states that no hadd punishment is imposed on a person who uses alcohol for medicinal purposes, even if they could find an alternative to alcohol. As for those who use *al-Banjū* (datura), *al-Hasyisyah* (cannabis) and *al-Ufjūn* (opium), in small quantities and without the intention of

⁷⁸ Shahrul Mizan Ismail et al., "The Legality of Medical Cannabis from the Islamic Perspective," *Jurnal Undang-Undang Dan Masyarakat* 32, no. May (2023): 55–71, <https://doi.org/10.17576/juum-2023-32-06>.

⁷⁹ Djazuli, *Kaidah-Kaidah Fikih*.

using them continuously, this is considered *makruh*. Meanwhile, if these substances are used for medicinal purposes, then according to al-Malibari, it is permissible.⁸⁰ If the issue of medical cannabis is considered within the Indonesian context, as indicated by the research mentioned earlier, on the one hand, cannabis has health benefits. However, on the other hand, cannabis also has negative effects such as a reduction in intelligence (IQ), respiratory problems such as coughing, and the potential to impair judgement; consequently, the Indonesian Government, through Law No. 35 of 2009 on Narcotics, prohibits the use of cannabis for medical purposes.

In addressing the dilemma surrounding medical cannabis, Islamic law can adopt an approach that is not rigid but highly contextual, taking into account the aspects of *maslahah* (benefit) and *madharah* (harm). This is in line with the principle of a fundamental principle in Islamic jurisprudence (*fiqh*), particularly within the legal maxims (*qawa'id fihiyyah*) used as a guide in determining rulings on matters not explicitly mentioned in the textual sources (the Qur'an and Hadith). One legal maxim highly relevant in this context is:⁸¹

الضَّرُورَاتُ تُبِيحُ الْمَحْظُورَاتِ

“Necessity permits what is otherwise prohibited”

In cases of urgent or emergency medical need, the use of cannabis which is originally classified as *haram* due to its intoxicating properties may have its ruling changed to *mubah* (permissible), depending on the degree of urgency. This applies if it is scientifically proven that cannabis provides significant benefits in treatment and no other alternative of comparable effectiveness is available.

From the above explanation, the legal ruling on medical cannabis in Islam cannot be separated from the following principle of *fiqh*:⁸²

الْحُكْمُ يَدُورُ مَعَ عِلَّتِهِ وَجُودًا وَعَدَمًا

“The ruling revolves around its ‘illat; the presence or absence of the ‘illat determines whether the ruling applies or not.”

Thus, if cannabis is used in a context where it is not intoxicating and instead provides significant benefits, then the *‘illat* of prohibition (intoxication) is no longer relevant, and consequently the ruling of prohibition does not apply in

⁸⁰ Zainuddin Abdul Aziz Al-Malibari, *Fathul Mu'in Bi Syarbi Quratul 'Aini* (Pesantren Fathul Ulum, n.d.).

⁸¹ Djazuli, *Kaidah-Kaidah Fikih*.

⁸² Ibnu Qayyim Al-Jauziyah, *I'lam al-Munwaqqi'in 'an Rabb al-'Alamin* (Dar al-Fikr, n.d.).

that context. Conversely, if it is used for pleasure or abuse, the ruling of prohibition remains in force.

Muh. Nashirudin expressed the view that in Islam, substances categorised as intoxicating are anything that can cause a loss of reason, regardless of their type or form. In this regard, cannabis falls within the category of intoxicating substances, although it differs from *khamr*, the prohibition of which has been explicitly stated in the Qur'an and hadith. Conversely, cannabis is not explicitly mentioned in the texts, so its ruling is determined through the principle of 'analogy', by comparing its underlying cause (*illat*) to that of *khamr*, namely that both are intoxicating.⁸³

However, as the law of *qiyas* is based on *ijtihad*, differences of opinion among scholars are possible, depending on the consensus regarding the underlying rationale (*illat*) employed. In certain circumstances, such as emergencies, the ruling of *haram* regarding prohibited substances like cannabis may change, as affirmed in the *fiqh* principle:

الضَّرُورَاتُ تُبِيحُ الْمَحْظُورَاتِ

"Necessity permits what is otherwise prohibited"

Muh. Nashirudin also explains that emergencies in Islamic law have strict limitations, namely that they only apply if the situation genuinely and tangibly threatens the safety of life or bodily integrity (*al-Halak al-Muhaqqaq*). If the threat has not reached that level, it cannot be categorised as an emergency. Furthermore, Muh. Nashirudin explains that the use of cannabis in the medical field must be strictly regulated in terms of dosage.⁸⁴ This principle of caution is in line with the rule:

الضَّرُورَاتُ تُقَدَّرُ بِقَدْرِهَا

"Emergencies are measured according to the degree of their urgency"

This means that, although permitted under certain circumstances, its use must still be limited to genuine medical needs and must not be excessive. For example, the use of small amounts of cannabis as a culinary ingredient in the Aceh region is considered within reasonable limits, provided it is not abused. Thus, what is prohibited in this context is the abuse of cannabis that is, when the substance is used excessively or outside medical supervision thereby falling into the category

⁸³ Muh. Nashirudin (Academic) interviewed by Muhammad Asyrofudin. UIN Raden Mas Said Surakarta. 16 May 2025.

⁸⁴ Muh. Nashirudin (Academic) interviewed by Muhammad Asyrofudin. UIN Raden Mas Said Surakarta. 16 May 2025.

of actions that are harmful and contrary to the principle of preserving sound reason within the maqashid sharia.⁸⁵

The concepts of benefit and harm in the medical use of cannabis indicate that, provided the potential harms of cannabis can be controlled through clear regulations, strict supervision, and consistent law enforcement, the benefits of cannabis in the medical field are worthy of consideration and implementation. In this regard, proportionate cooperation is required between religious scholars and the government.⁸⁶ Scholars play a role in examining the legal aspects of Islam by considering the elements of mashlahah and madharat, whilst the government is tasked with ensuring the implementation of medical cannabis policy proceeds in accordance with the rules, with serious supervision and firm action against all forms of misuse.⁸⁷

Ahmad Zia Khakim, an academic from the Muhammadiyah organisation, expressed the view that any type of food or drink that produces an intoxicating effect, such as tape, falls within the category of substances prohibited in Islam. In his view, cannabis also falls into the same category as *kbamr* under Islamic law. He even emphasised that there is no difference of opinion among classical scholars regarding the prohibition of cannabis, except among some contemporary scholars. Therefore, in his view, cannabis is *haram*, just like *kbamr*.⁸⁸

In the context of cannabis use as part of medical treatment, Ahmad Zia Khakim refers to the *fiqh* principle:

الضَّرُورَاتُ تُبِيحُ الْمَحْظُورَاتِ

“Necessity permits what is otherwise prohibited”

However, he made the important point that this permission only applies if cannabis is the only available medicinal option. To strengthen his argument, Ahmad Zia Khakim linked this to a classic story from the time of Umar bin Khattab, who once suspended the implementation of the punishment of amputation for thieves due to a famine. According to him, the suspension of the punishment was based on an emergency situation and the principle of public

⁸⁵ Muh. Nashirudin (Academic) interviewed by Muhammad Asyrofudin. UIN Raden Mas Said Surakarta. 16 May 2025.

⁸⁶ Fuad Mustafid et al., “Positivization of the Council of Indonesian Ulema’s Halal Fatwa: Policy and Position in Indonesian Legislation,” *JURIS (Jurnal Ilmiah Syariah)* 23, no. 1 (2024): 155–66, <https://doi.org/10.31958/juris.v23i1.10859>.

⁸⁷ Muh. Nashirudin (Academic) interviewed by Muhammad Asyrofudin. UIN Raden Mas Said Surakarta. 16 May 2025.

⁸⁸ Ahmad Zia Khakim (Academic) interviewed by Muhammad Asyrofudin. UIN Raden Mas Said Surakarta. 12 May 2025.

interest, and a similar principle could be applied when considering the law on cannabis for medical needs in an emergency context.⁸⁹

Ahmad Zia Khakim also explained that the concept of public interest in the use of medical cannabis is limited to two main aspects, namely health benefits and scientific interests. Meanwhile, the negative impacts or harms of cannabis are considered to outweigh its benefits. Therefore, in his view, Islamic law still allows for flexibility regarding the use of cannabis, provided it is limited to urgent conditions related to medical needs or used within the realm of scientific research for the advancement of knowledge.⁹⁰

In this regard, the legal flexibility that balances the aspects of urgency and caution is also a concern for Gatot Sutarno, a member of the Tarjih Council of Muhammadiyah in Sragen Regency. In this context, he expressed the view that alcohol and cannabis share the same legal rationale—namely, that they are intoxicating and are therefore both deemed *haram*. Nevertheless, Gatot Sutarno noted differing opinions regarding medical cannabis among scholars. In his view, the use of medical cannabis in emergency situations is permitted. He explained that Islamic teachings advocate for ease and the avoidance of hardship.⁹¹ This is as explained in Surah Al-Baqarah (2): 185 as follows:

... يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ وَلَا يُرِيدُ بِكُمُ الْعِدَّةَ وَلِتُكَبِّرُوا اللَّهَ عَلَىٰ مَا هَدَاكُمْ وَلَعَلَّكُمْ تَشْكُرُونَ

In his view, the above verse can serve as a legal basis for considering the use of cannabis for medical purposes as a form of legal leniency in difficult circumstances. This is also in line with Abu Hanifah's view regarding the importance of in considering the public interest in urgent situations. Nevertheless, he notes that whilst the flexibility of Islamic jurisprudence regarding medical cannabis can be applied, its practical implementation is not straightforward. In a medical context, cannabis can only be utilised as a supportive alternative, not as the primary solution.⁹²

Meanwhile, Husein Muhammad, a member of the Advisory Council of the Central Board of Nahdlatul Ulama (PBNU), explained that from an Islamic

⁸⁹ Ahmad Zia Khakim (Academic) interviewed by Muhammad Asyrofudin. UIN Raden Mas Said Surakarta. 12 May 2025.

⁹⁰ Ahmad Zia Khakim (Academic) interviewed by Muhammad Asyrofudin. UIN Raden Mas Said Surakarta. 12 May 2025.

⁹¹ Gatot Sutarno (Muhammadiyah Organisation) interviewed by Muhammad Asyrofudin. Sragen. 12 May 2015.

⁹² Gatot Sutarno (Muhammadiyah Organisation) interviewed by Muhammad Asyrofudin. Sragen. 12 May 2015.

legal perspective, an intoxicating substance is anything that can impair a person's consciousness to the point of potentially leading to dangerous acts such as violence, murder, or rape. Nevertheless, Husein Muhammad emphasised that not all intoxicating substances automatically fall under the category of *kehamr*. He also acknowledged differing opinions among scholars regarding the ruling on cannabis, particularly in the context of its medical use. In his view, cannabis may be permitted for medical treatment provided it is used sparingly and not excessively. In explaining the permissibility of cannabis use for medical purposes, Husein Muhammad bases his view on the following *fiqh* principle:

الضَّرُورَاتُ تُبِيحُ الْمَحْظُورَاتِ

“Necessity permits what is otherwise forbidden”

The above principle is a key tenet of Islamic law that grants flexibility regarding religious prohibitions under certain urgent circumstances. In this regard, Husein Muhammad emphasises that the use of cannabis, which is fundamentally prohibited due to its intoxicating nature, may be permitted when used in a medical emergency. This means that when no other *halal* or equally effective alternative is available for treatment, the use of cannabis may be justified under Islamic law, provided it is intended to save a life or alleviate severe suffering.⁹³

As an illustration of the application of the above principle, Husein Muhammad cited an example frequently used in classical Islamic jurisprudence literature. The permissibility of a male doctor viewing the private parts of a woman in labour, if no female medical staff are available. In such an emergency, the violation of the prohibition on viewing private parts becomes legally valid and permissible, as it is based on an urgent necessity to save a life.⁹⁴

Thus, in the context of cannabis for medical purposes, this principle of *fiqh* demonstrates that Islamic law possesses flexibility when faced with emergency situations. However, Husein Muhammad also emphasised that such use must remain under strict supervision and must not exceed the limits of necessity. This means that cannabis may only be used to the extent required for therapeutic purposes and must not be misused outside this framework.⁹⁵

⁹³ Husein Muhammad (NU cleric) interviewed by Muhammad Asyrofudin. Cirebon. 15 May 2025.

⁹⁴ Husein Muhammad (NU cleric) interviewed by Muhammad Asyrofudin. Cirebon. 15 May 2025.

⁹⁵ Husein Muhammad (NU cleric) interviewed by Muhammad Asyrofudin. Cirebon. 15 May 2025.

According to Faghfirlie, as a healthcare professional, the use of cannabis in the medical field is permissible as an alternative therapy, but it cannot be positioned as the primary treatment option as there are still various other aspects that need to be comprehensively considered. He emphasised that the use of cannabis-derived compounds, such as Cannabidiol (CBD), is acceptable provided they have undergone a purification process, have a measured dosage, and their use is under the supervision of a doctor with expertise in the relevant field.⁹⁶

Regarding the issue of medical cannabis legalisation, Faghfirlie explained that cannabis-derived medicinal products, such as Epidiolex, can obtain legal status if they have been registered and approved by the relevant regulatory authority, such as the BPOM, for use as part of medical therapy. In this regard, he compared the use of medical cannabis to morphine derived from the opium poppy. Although opium is classified as a narcotic with a high potential for abuse, morphine remains legally permissible because it is prescribed by medical professionals, used in accordance with specific clinical indications—such as the management of cancer pain that is no longer responsive to other analgesics—and is subject to a strict distribution control system.⁹⁷

From the above explanation, a common thread can be drawn that the use of cannabis is fundamentally deemed *haram* under Islamic law as it falls within the category of intoxicating substances capable of impairing the mind, in accordance with the general principle in Islamic law prohibiting anything that has a negative impact on the human soul and mind. However, in the context of cannabis use for urgent or emergency medical purposes, some scholars grant legal leniency subject to certain conditions. These include the limited use of cannabis, strict supervision by medical personnel, and the absence of any comparable alternatives.

Although Islamic law permits the use of cannabis for medical purposes under certain conditions, epistemological tensions within the legal framework are evident in Indonesia's positive law through a series of substantive reviews at the Constitutional Court. This development began with Constitutional Court Decision No. 106/PUU-XVIII/2020, which was delivered on 20 July 2022. In the case brought by Dwi Pertiwi et al., the petitioners challenged the provisions of Article 6(1)(a) and Article 8(1) of Law No. 35 of 2009 on Narcotics, which impose a total ban on Schedule I narcotics for healthcare purposes.

However, in its substantive review, the Constitutional Court rejected the petitioners' application in its entirety. In its legal reasoning, the Constitutional Court emphasised the principle of prudence, given the lack of evidence from

⁹⁶ Faghfirlie (Healthcare Worker) interviewed by Rahmad Setyawan. Solo. 5 May 2025.

⁹⁷ Faghfirlie (Health Worker) interviewed by Rahmad Setyawan. Solo. 5 May 2025.

comprehensive, in-depth and valid scientific studies regarding cannabis for medical purposes in Indonesia. Although the Constitutional Court rejected the petition in its entirety, it also issued a mandatory order to the government to immediately conduct specific scientific research, the results of which must serve as a reference for lawmakers to amend policies regarding the use of narcotics for healthcare purposes.⁹⁸

Two years later, efforts to promote the legality of cannabis for medical purposes were tested again through Constitutional Court Decision No. 13/PUU-XXII/2024, handed down on 20 March 2024. In this case, the married couple Pipit Sri Hartanti and Supardji filed a petition regarding Article 1(2) of Law No. 8 of 1976 on the Ratification of the 1961 Single Convention on Narcotic Drugs and its amending protocols. The petitioners, in this instance, cited the latest international document, namely the 63rd session of the Commission on Narcotic Drugs (CND) in Vienna in 2020 (document E/CN.7/2020/CRP.19), in which the WHO officially recommended the removal of cannabis from Schedule IV (the most dangerous substances with no medical value) to Schedule I of the 1961 Convention so that it may be used for therapeutic purposes.

However, at that very moment, the Constitutional Court once again rejected the petition in its entirety. The Constitutional Court revealed that the Indonesian Government had consciously adopted a defensive stance regarding national sovereignty through Conference Room Paper E/CN.7/2020/CRP.24. At that international forum, Indonesia formally objected to the WHO's recommendation and chose not to ratify the relaxation, arguing that the dangers of cannabis in Indonesia far outweigh its benefits.⁹⁹

Building on this discourse, this study offers an Islamic bioethical approach as a framework for further analysis in understanding the use of cannabis for medical purposes in Indonesia. This approach frames the issue of cannabis for medical purposes as a matter of bioethics, health protection, and public health governance within a modern Muslim state.

The Islamic bioethics proposed in this study comprises six main principles. First, the bioethical principle of the protection of life (*hifz al-Nafs*), which holds that Islamic law aims to safeguard human life and health. In this context, the use of medical cannabis may be considered if it has scientifically proven therapeutic benefits and is capable of alleviating the patient's suffering. Second, bioethics of the protection of the mind (*hifz al-'Aql*), namely the principle

⁹⁸Mahkamah Konstitusi, *Ikhtisar Putusan Perkara Nomor 106/PUU-XVIII/2020 Tentang Pemanfaatan Narkotika Untuk Kesehatan Dan Terapi* (Mahkamah Konstitusi, 2022).

⁹⁹Mahkamah Konstitusi, *Ikhtisar Putusan Perkara Nomor 13/PUU-XXII/2024 Tentang Penggunaan Ganja Medis*.

of preventing mental and social harm resulting from substance abuse. Therefore, the use of medical cannabis cannot be freely legalised, but must be subject to strict medical supervision and state control.

Third, the bioethics of *maslahah*, which is an approach that weighs the balance between therapeutic benefits and potential harms. Under this principle, the use of cannabis for medical purposes can only be justified if the medical benefits outweigh the health risks and social impacts involved. Fourth, emergency bioethics, which is the principle that certain medical conditions may permit the use of therapies that were previously prohibited if there is an urgent need and no other, more effective treatment alternatives are available.

Fifth, harm reduction bioethics, which is an approach to minimise the risk of misuse through access restrictions, medical supervision, patient registration, and pharmaceutical distribution controls. Sixth, the bioethics of the right to health. This bioethical framework positions access to healthcare as a fundamental human right. In the context of modern states, patients have the right to receive the necessary treatment to maintain their quality of life. This principle can be used to explain the tension between the prohibition of narcotics and the patient's right to medical treatment. However, the right to health in Islamic bioethics remains limited by the interests of society, risk control, and the state's responsibility to maintain social order.

Based on these principles of Islamic bioethics, this study also proposes a model of healthcare governance based on the *maqasid al-Sharia* for the use of medical cannabis. This governance model is intended to strike a balance between patient protection, narcotics control, public protection, and moral-religious legitimacy. The *maqasid sharia*-based health governance model proposed in this study is realised through six operational mechanisms. First, the use of medical cannabis is only permitted for specific medical purposes based on scientific validation and clear therapeutic needs. Second, use must be prescribed and supervised by a specialist doctor. Third, the state must establish a patient registration system and distribution controls to prevent misuse. Fourth, the production and distribution of medical cannabis must be under state supervision and strict pharmaceutical standards. Fifth, the involvement of religious scholars, health experts, and state regulators is required in the formulation of ethical guidelines for the use of medical cannabis. Sixth, the governance of medical cannabis must be based on risk assessment and mitigation. The state needs to conduct periodic research, social impact assessments, public health monitoring, and regulatory revisions where necessary. Thus, health regulations are not static but capable of adapting to scientific developments and the needs of society

Through this approach, it can be affirmed that Islamic law functions not only as a normative instrument of prohibition, but also as a framework for Islamic bioethics and public health governance that is adaptive to developments in modern medical therapy and oriented towards the public good and the balanced control of harm.¹⁰⁰

Consequently, the amendment of Law No. 35 of 2009 on Narcotics is both important and urgent, particularly regarding the reclassification of cannabis from a Schedule I narcotic to a category that may be utilised on a limited basis for medical services. This amendment is not merely a form of unrestricted legalisation, but rather an effort to accommodate public health whilst upholding the principles of prudence, oversight, and strict state control to prevent any loopholes for abuse. The regulatory update regarding the strictly regulated and limited use of cannabis for medical purposes represents a meeting point between humanitarian interests, sharia guidance, and the state's obligation to guarantee its citizens' right to health, without compromising existing moral and legal frameworks.¹⁰¹

Conclusion

The use of cannabis for medical purposes from an Islamic legal perspective is a complex and multidimensional issue as it lies at the intersection of health protection, narcotics control, and religious norms. Research findings indicate that Islamic law does not address the issue of medical cannabis in a normative and absolute manner, but rather through a contextual approach that considers the balance between *maṣlahah* and *mafsadah*. Within the framework of maqashid sharia, the protection of life (*hiḍḍ an-Nafs*) and the right to health may serve as grounds for permitting the limited use of medical cannabis, particularly in emergency situations and cases of urgent therapeutic need. However, such permissibility is not absolute; rather, it must meet certain conditions, such as the existence of scientific validity regarding its benefits for medical needs, the unavailability of alternative treatments with equivalent efficacy, and the presence of strict medical supervision and state control to prevent misuse.

This study also confirms that the Islamic bioethical approach is relevant to formulating health governance based on the maqashid sharia regarding the use of medical cannabis in Indonesia. The main contribution of this article lies in the

¹⁰⁰ Khotifatul Defi Nofitasari, "The Urgency and Implication of Breast Milk Donor in Indonesia in Mashlahah Perspective," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 8, no. 2 (2024): 253–66, <https://doi.org/10.29300/mzn.v8i2.2799>.

¹⁰¹ Ahmad Sanusi et al., "The Application of Emergency Concept Within the MUI Fatwa on Measles Rubella Vaccine Immunization," *Al-Adalah* 17, no. 2 (2020): 397–422, <https://doi.org/10.24042/adalah.v17i2.6054>.

development of an Islamic bioethical analytical framework comprising six principles, namely *hifz an-Nafs*, *hifz al-'Aql*, *maslahah*, *darurah*, harm reduction, and the right to health, which are then integrated into a health governance model based on *maqashid sharia*. This model encompasses six operational mechanisms: scientific validation, specialist medical supervision, patient registration, pharmaceutical distribution control, the involvement of religious authorities, health experts, and state regulators, as well as periodic risk assessment and mitigation. Based on these findings, this study recommends the need to update narcotics regulations in Indonesia through more adaptive and supervision-based regulations regarding the use of cannabis for medical purposes. This update is not aimed at the general legalisation of cannabis, but rather as a form of proportional legal and health policy response to scientific developments, medical needs, and the protection of the public's right to health within the framework of national law and Islamic law.

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