

Article

State and District Regulation of Medicinal Cannabis in Brazil: a normative and policy analysis

Regulamentação Estadual e Distrital da Cannabis Medicinal no Brasil: uma análise normativa e política

Regulación estatal y distrital del cannabis medicinal en Brasil: un análisis normativo y político

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Abstract

Objective: to analyze the regulatory framework governing state-level access to cannabis-based medicines, as well as to examine the political spectrum of the legislators who proposed the sanctioned bills and the governors who enacted the laws. **Methodology:** An exploratory study with a qualitative and quantitative approach, based on a legislative survey conducted on the website titled State Law using the **keywords:** “cannabis,” “medicinal cannabis,” and “cannabidiol.” The identified legislation was cross-checked with official websites of the respective State Legislative Assemblies and the Legislative Chamber of the Federal District. Results: Nineteen state laws and one district law were found, providing for access through the Unified Health System, associations, or home cultivation (subject to judicial authorization or federal law), as well as the use of the plant for scientific and industrial purposes with self-financing sources beyond Unified Health System resources, ensuring policy implementation. The right-wing political spectrum stood out the most, with eight bills converted into law and thirteen laws enacted. **Conclusion:** There is considerable diversity in the content and scope of these laws. The political analysis revealed an intriguing phenomenon, comparable to a silent explosion, characterized by a significant yet understated increase in legislative production at the state level, particularly in 2022 and 2023, which sharply contrasts with the conspicuous stagnation of the national legislative landscape.

Keywords: Medical Marijuana; Unified Health System; Legislative; Executive; Legislation as Topic.

Resumo

Objetivo: analisar o marco normativo sobre a regulamentação estadual do acesso aos medicamentos à base de *cannabis*, além de verificar o espectro político dos parlamentares que propuseram os projetos de lei sancionados e dos governadores que sancionaram as leis. **Metodologia:** estudo exploratório com abordagem qualiquantitativa, com levantamento legislativo realizado no site intitulado Leis Estaduais

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utilizando palavras-chave: “cannabis”, “cannabis medicinal” e “canabidiol”. A legislação encontrada foi confrontada nos sites oficiais das respectivas assembleias legislativas estaduais e da Câmara Legislativa do Distrito Federal. **Resultados:** foram localizadas 19 leis estaduais e uma distrital que trazem previsão de acesso, seja pelo Sistema Único de Saúde, associações ou cultivo doméstico (mediante autorização judicial ou lei federal), bem como o uso da planta para fins científicos e industriais com fonte de financiamento próprio, para além dos recursos do Sistema Único de Saúde, visando garantir a implementação da política. A direita é o espectro político que mais se destacou, com oito projetos de lei convertidos em leis e 13 leis sancionadas. **Conclusão:** há considerável diversidade de conteúdo e alcance das leis. A análise política apontou um fenômeno curioso, comparável a uma explosão silenciosa, marcado pelo aumento significativo e sem alarde da produção legislativa nos estados, principalmente nos anos de 2022 e 2023, contrastando de forma acentuada com a estagnação ruidosa do cenário nacional.

Palavras-chave: Maconha Medicinal; Sistema Único de Saúde; Poder Legislativo; Poder Executivo; Legislação como assunto.

Resumen

Objetivo: analizar el marco normativo sobre la regulación estatal del acceso a los medicamentos a base de cannabis, así como examinar el espectro político de los legisladores que propusieron los proyectos de ley sancionados y de los gobernadores que promulgaron las leyes. Metodología: Estudio exploratorio con un enfoque cualicuantitativo, basado en un levantamiento legislativo realizado en el sitio web titulado Leis Estaduais, utilizando las palabras clave: "cannabis", "cannabis medicinal" y "cannabidiol". La legislación identificada fue contrastada con los sitios oficiales de las respectivas Asambleas Legislativas estatales y de la Cámara Legislativa del Distrito Federal. Resultados: Se encontraron diecinueve leyes estatales y una ley distrital que prevén el acceso a través del Sistema Único de Salud, asociaciones o cultivo doméstico (sujeto a autorización judicial o ley federal), así como el uso de la planta con fines científicos e industriales con fuentes de financiación propias, más allá de los recursos del Sistema Único de Salud, para garantizar la implementación de la política. El espectro político de derecha fue el que más se destacó, con ocho proyectos de ley convertidos en ley y trece leyes promulgadas. Conclusión: Existe una considerable diversidad en el contenido y el alcance de estas leyes. El análisis político reveló un fenómeno curioso, comparable a una explosión silenciosa, caracterizado por un aumento significativo pero discreto de la producción legislativa a nivel estatal, particularmente en los años 2022 y 2023, en marcado contraste con la ruidosa estagnación del panorama legislativo nacional.

Palabras clave: Marihuana Medicinal; Sistema Único de Salud; Poder Legislativo; Poder Ejecutivo; Legislación como Asunto.

Introduction

According to Pierro⁽¹⁾ cannabis sativa has accompanied the human species since the Neolithic period, being one of the first domesticated plants. Around 12,000 years ago, in Central Asia, the plant was already used as food, to make textiles and as a drug. With the advent of writing, references to the use of cannabis appear in the Chinese book *Pen Tsao* (2,700 BC), which describes its use by the emperor Shen Nóng to treat joint pain, menstrual cramps and intestinal disorders. In ancient Egypt, the Ebers papyrus (1,500 BC) documents the use of cannabis to treat pain, emotional disorders and promote well-being, featuring among 700 other medical formulas.

According to Rosa⁽²⁾ Brazil's history with the plant can be traced back to the Portuguese overseas expansion in the 15th century. After all, the sails and ropes of the ships that arrived in what was then

Portuguese America at the beginning of colonization were made from hemp. Given this importance, the Portuguese Crown encouraged hemp production in the Colony of Brazil between 1716 and 1822.

In this way, while still in colonial times, cannabis reached Brazil and other countries in South and Central America through Africans, mainly Angolans, where its use was fundamental for treating the symptoms of physical and emotional aggression suffered during the period of slavery⁽¹⁾.

According to Soares⁽³⁾ it wasn't until the beginning of the 20th century, when Brazil joined the 1912 International Opium Convention and Decree 20.930/1932 restricted the use of cannabis and other substances for medicinal, scientific and industrial purposes. This had a significant negative impact on society, on the development of scientific research and on the production of medicines derived from cannabis. However, he states that even though cannabis has been restricted in Brazil since 1932 and banned since Decree-Law No. 891/1938, this has not been absolute.

Law 11.343/2006⁽⁴⁾ criminalizes the supply and demand of drugs, but establishes that the Federal Government can authorize the planting, cultivation and harvesting of plants, exclusively for medicinal and scientific purposes. Internationally, the issue is governed by three main conventions: the Single Convention on Narcotic Drugs (1961), the Convention on Psychotropic Substances (1971) and the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)⁽³⁾.

For Burgati⁽⁵⁾ the case of Anny Fischer, in 2014, became a political, social and legal milestone on the issue of cannabis-based medicines in Brazil. Anny suffers from early infantile epileptic encephalopathy type 2 (EiEE2) and, as a result, has around 80 seizures a week, i.e. a seizure almost every 2 hours. Looking for alternative treatments, the parents discovered cannabidiol (CBD). The use of the cannabis-based compound imported from the USA significantly reduced the seizures, which the doctor considered to be a real miracle.

However, CBD was banned in Brazil, and importing it was a crime of international drug trafficking. Even so, Anny's parents decided to import the medicine. The case drew public attention and highlighted the conflict between the strict application of the law and fundamental rights, such as human dignity and the right to health and life.

In assessing the situation, the Brazilian court weighed up the legality and Anny's rights, based on Robert Alexy's theory of weighting⁽⁵⁾ and Herbert Hart's notion of defeasibility⁽⁵⁾ which, in short, means that when there is a collision of constitutional principles, one must weigh up which one should prevail. Thus, one principle will take precedence over the other, and this is not something rigid and absolute, but is scaled according to the specific case.

The favorable court decision allowed the use of CBD and prompted regulatory changes, removing cannabidiol from the list of proscribed substances, authorizing its medicinal use and raising expectations of regulatory advances⁽⁵⁾ favoring the families of patients who were able to benefit from treatment with cannabis-based medicines.

However, a decade after the Anny Fischer case, there is no national public policy on the production of and access to cannabis-based medicines in the Unified Health System (SUS) or any federal law passed on the subject. According to Dye⁽⁶⁾ public policies are defined by the government's choices about what to do and what not to do and, although there are bills related to the use of cannabis for medicinal purposes currently before the federal legislature, there has been no progress on regulation^(7,8).

On the other hand, the opposite phenomenon can be observed in state legislation, with a profusion of sanctions and enactments of rules establishing public policies for access to and supply of cannabis-based medicines by the public health system and/or associations.

This article therefore presents the results of an analysis of state legislation on access to cannabis-based medicines and looks at the political spectrum of the parliamentarians who proposed the bills that became law and the governors who sanctioned them.

Methodology

This is an exploratory study with a qualitative and quantitative approach. The study was based on a mapping of sanctioned laws relating to state policies for access to or free supply of medicines formulated from cannabis-based plant derivatives. The research was initially carried out through a search on the State Laws website <https://leisestaduais.com.br/?select_state=>, a private website that has a platform for managing state laws for free consultation, using the keywords "cannabis", "medical cannabis" and "cannabidiol", from August 22, 2024 to November 8, 2024. In addition, the official websites of the state legislative assemblies and the Legislative Chamber of the Federal District were consulted to verify the information.

After systematizing the data in an Excel spreadsheet, the states were identified and quantified, as well as the party identification of the parliamentarians who proposed the bills and the governors or legislative assembly presidents who sanctioned or enacted laws on medical cannabis. In order to avoid distorting the results, only the state deputy who was the main or titular author of the bill was considered to be the author of the bill. For the definition of the ideological spectrum, we used the adaptation of classifications made by Tarouca and Madeira⁽⁹⁾.

In order to standardize the qualitative analysis of ordinary laws within the scope of the article, the following categories were established: access to medicine, purpose and own funding that does not come from the SUS.

The access to medicine category was divided into three subcategories: SUS, associations and home cultivation. The SUS subcategory covers the legal provision that guarantees patients the right to obtain cannabis-based medicines directly from the state health network or another public institution linked to the state government. In the case of associations, this includes both the legal provision for associations to supply the medicine through agreements or partnerships with the state, and the regulation of their activities with patients, without using SUS resources. Domestic cultivation, on the other hand, refers to the legal possibility for patients to cultivate the plant on their own, albeit subject to judicial or administrative authorization.

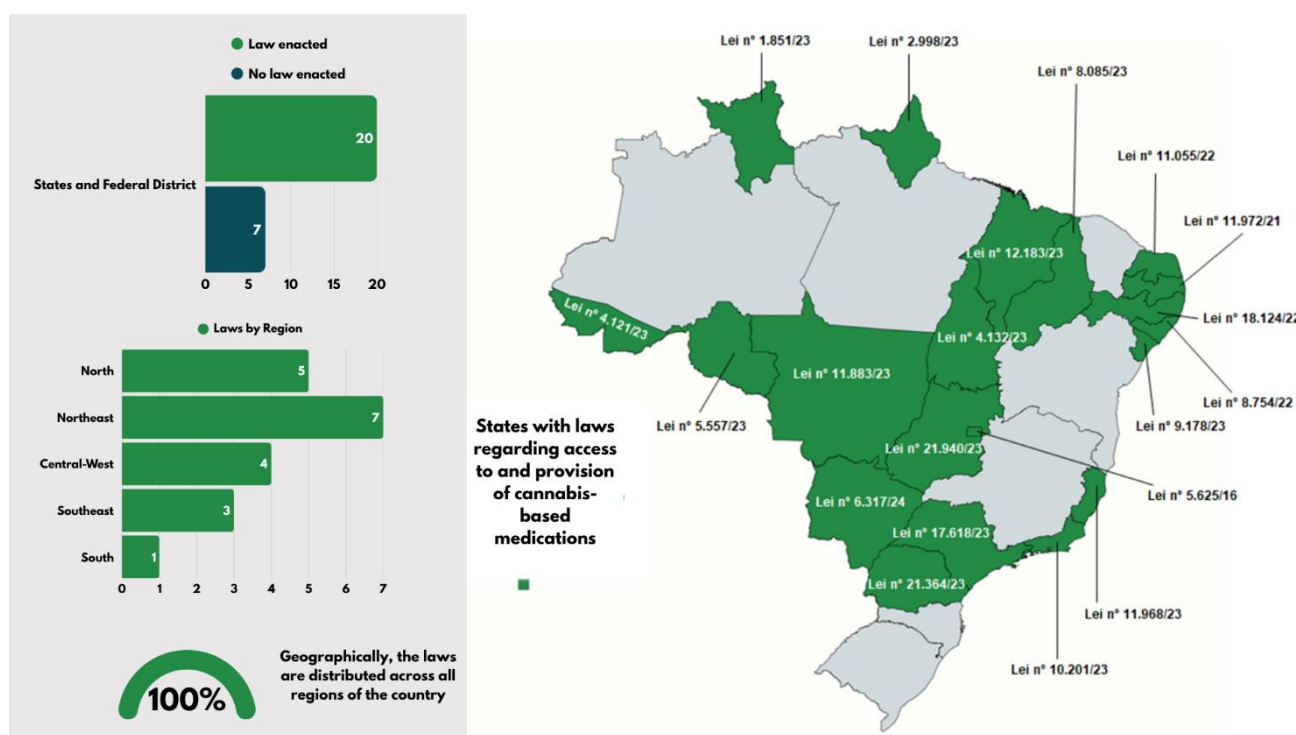
The category related to the purpose of the plant's use was divided into six subcategories: medicinal use, veterinary use, scientific use, cultivation, educational training and industry. The medicinal subcategory covers the legal provision for the use of cannabis in health treatments. The veterinary use subcategory refers to medicinal use for animals. The scientific subcategory deals with the promotion of research, carried out by universities, state bodies or private initiative. The cultivation subcategory includes cultivation by associations, family farmers, researchers and other entities, excluding domestic cultivation. The educational subcategory includes courses, seminars, forums and other activities aimed at educating the population and training health professionals, both in the public and private health networks. Finally, the industrial subcategory provides for the promotion of activities related to the use of the plant in industrial applications, in addition to medicinal ones.

Finally, the funding category refers to the existence of a direct source of state funding, subcategorized into: Medicines, Research and Industrial. These sources are intended to fund public policies aimed at medicines, scientific research and industrial development related to medical marijuana.

Results and discussion

The research identified a total of 20 laws - 19 ordinary state laws and one district law (figure 1) - that promote the expectation of or guarantee free access to cannabis-based medicines, published in the period 2016-2024 (graph 1).

Figure 1. Map of state federal entities with laws on access to and supply of cannabis-based



Source: Prepared by the authors based on the data collected.

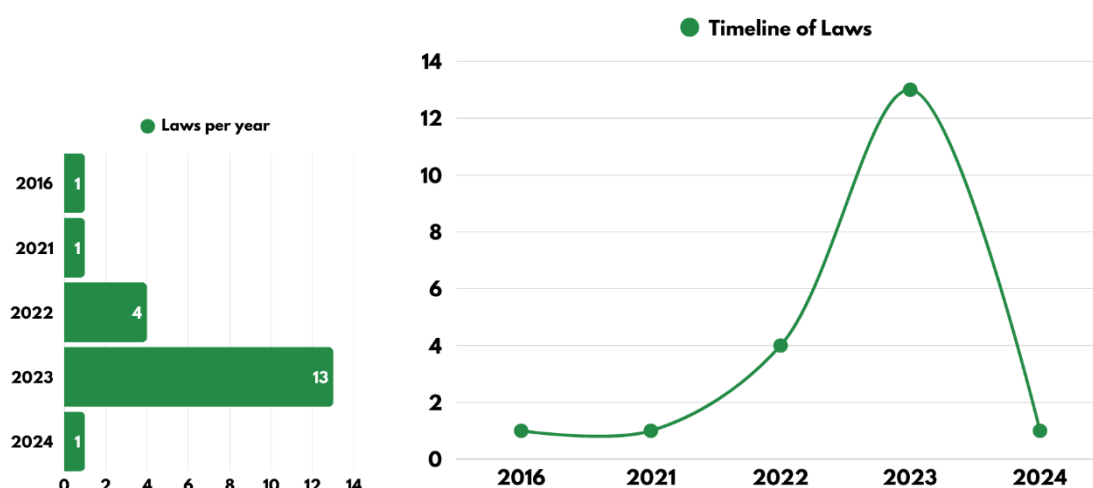
The laws are geographically distributed in all regions of the country, as follows: i) **Northern Region:** Acre (AC)⁽¹⁰⁾, Amapá (AP)⁽¹¹⁾, Rondônia (RO)⁽¹²⁾, Roraima (RR)⁽¹³⁾ and Tocantins (TO)⁽¹⁴⁾; ii) **Northeast Region:** Alagoas (AL)⁽¹⁵⁾, Maranhão (MA)⁽¹⁶⁾, Paraíba (PB)⁽¹⁷⁾, Pernambuco (PE)⁽¹⁸⁾, Piauí (PI)⁽¹⁹⁾, Rio Grande do Norte (RN)⁽²⁰⁾ and Sergipe (SE)⁽²¹⁾; iii) **Center-West Region:** Distrito Federal (DF)⁽²²⁾, Goiás (GO)⁽²³⁾, Mato Grosso (MT)⁽²⁴⁾ and Mato Grosso do Sul (MS)⁽²⁵⁾ and iv) **Southeast Region:** Espírito Santo (ES)⁽²⁶⁾, Rio de Janeiro (RJ)⁽²⁷⁾ and São Paulo (SP)⁽²⁸⁾ and, finally, v) **Southern Region:** Paraná (PR)⁽²⁹⁾.

The chronological process of regulating the issue at the state level took place in waves, starting with legislation in the Federal District in 2016, which amended District Law No. 4.202 of September 3, 2008 to include cannabidiol as a therapeutic alternative in the Program for the Prevention and Assistance of People with Epilepsy in the Federal District; followed by the state of Paraíba in 2021,

which, although does not deal with the dispensing of cannabis-based medicines by the public health system, provided for the encouragement of training, studies and scientific research with cannabis.

Two waves followed: the first, in 2022, with the approval of four ordinary state laws (AL, MT, PE and RN), and the second, in 2023, characterized by a significant increase, with the approval of thirteen laws (AC, AP, ES, GO, MA, PI, PR, RJ, RO, RR, SE, SP and TO). In 2024, Mato Grosso do Sul passed its state law (Graph 1). It should be noted that, to date, there is no federal legislation on the subject, leaving it up to the states to innovate legally on this issue.

Graph 1. Sanction of ordinary laws on medical cannabis in the states from 2016 to 2024

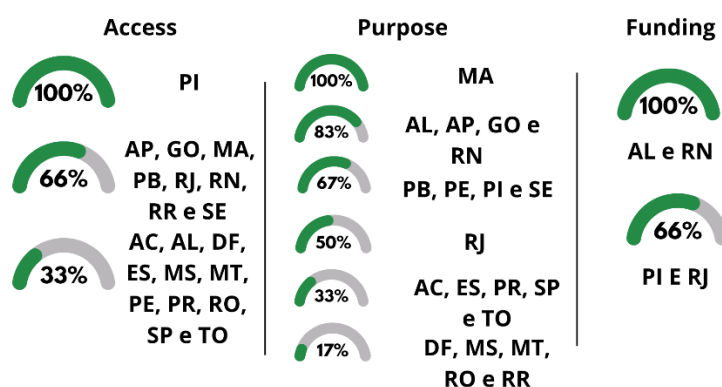


Source: Prepared by the authors based on the data collected.

Regulatory analysis

Considering the entire sample of regulations in question, it can be seen that there is considerable diversity in the content and scope of state laws, especially in the purpose category, which has the greatest fragmentation of indicators.

Figure 2. Indicator of legal provision for the subcategories established in the study



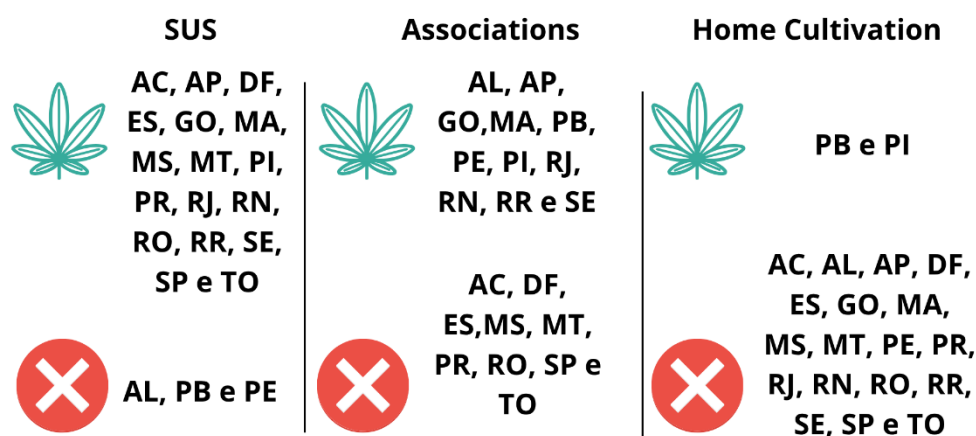
Source: Prepared by the authors based on the data collected.

In the access category, three subcategories were established, which are: express legal provision for supply by the SUS (State Health Department or public institution), by patient associations and finally domestic cultivation. Only the state of PI achieved 100% compliance with the subcategories established. The other states, in the access category, achieved rates of 66% or 33%, which means that two or one of the three possible subcategories is provided for in the legislation, respectively.

In the purpose category, only MA's legislation covers the breadth of the established subcategories, which are medicinal, veterinary, scientific research, cultivation, educational and industrial use, thus achieving 100% legal provision. AL, AP, GO and RN, on the other hand, achieved an index of 83%, by providing for five of the six subcategories. The DF and the states of MS, MT, RO and RR scored 17% for having only one of the six subcategories of purpose.

The last category is financing, where AL and RN achieved a score of 100%. This indicates that there is provision for a source of funding for all three subcategories, which deal with financial guarantees for the implementation of the policy of access to cannabis-based medicines, partnerships and agreements to promote scientific research and financial incentives for the exploitation of industrial activity using cannabis. On the other hand, PI and RJ reached 66%.

Figure 3: States with legislation providing for access by SUS, associations and home cultivation



Source: Prepared by the authors based on the data collected

Figure 3 shows that practically the entire sample of legislation, with the exception of AL, PB and PE, has an objective provision on access to cannabis-based medicines through the SUS. When legislators in AL and PB made provisions for a public policy of universal access to health treatment with cannabis products and their derivatives, they chose not to provide for direct supply by the SUS. In the case of LA, access can occur through patient associations, research institutions and public or private universities. PB's legislation also provides for agreements or partnerships with therapeutic cannabis entities, with the aim of advising on the process of growing cannabis, producing therapeutic cannabis and cannabis derivatives to supply patients linked to the associations. The PE legislator, on the other hand, did not intend to regulate a broad public policy on access to medicines via the SUS,

but essentially dealt with associations, the cultivation practiced by associations and scientific research, which is why there is no provision for access via the SUS in the PE regulation.

Still on the PE regulations, it is important to note that the regulation analyzed was State Law No. 18.124/2022 of December 28, 2022 and not State Law No. 18.757/2024 of December 5, 2024, which was enacted after the deadline for collecting regulations for this study and therefore not considered.

The subcategory associations addresses the rules that regulate the relationship between associations and the state in the context of cannabis-based medicines. These rules provide for the need to sign agreements or partnerships to make it possible to carry out quality tests and laboratory analysis of samples of extracts and plants in natura. In addition, they emphasize the importance of guaranteeing access to treatment for patients, whether through SUS resources, the state's own resources or other funding mechanisms. They also establish guidelines and obligations relating to the operation of associations and the supply of cannabis-based medicines directly to patients.

The domestic cultivation subcategory was created because of its relevance in eliminating intermediaries and bureaucratic processes, enabling access to prevention and treatment of health conditions directly by the patient and the historical symbolism. According to Oliveira MB de et al⁽³⁰⁾ in 2016 there was a clandestine network in Brazil producing oil extracted from cannabis on a small scale, with modest capital investment requirements, where it was donated to eleven patients, legally assisted by two lawyers (Dr. Emílio Figueiredo and Dr. Fernando Silva). Two of the patients' mothers, Cidinha Carvalho and Margarete Brito, chose to migrate to home cultivation. Cidinha even took a course at a non-governmental organization (NGO) called Mamá Cultiva in Chile, after which she filed a lawsuit and obtained an injunction authorizing home cultivation. Margarete, on the other hand, according to Carvalho VM et al⁽³¹⁾ before the habeas corpus was granted, based on peaceful civil disobedience based on the state of necessity to preserve her daughter's life, cultivated cannabis plants on the balcony of the family home in order to produce oil. Both mothers of patients, Cidinha and Margarete, today lead the associations Cultive. Each patient and family who opts for home cultivation faces its own challenges and risks, however, it is essential to have proper medical supervision, take a course in plant management and the extraction process, in order to guarantee safety and efficacy in the production and use of medicines, as well as the indispensable legal support with preventive habeas corpus.

It is important to note that the state legislature, in dealing with domestic cultivation, does not alter or create a conflict with the national legal system, nor does it overstep its competence in legislating, since the rules essentially define domestic cultivation, which is nothing more than all non-profit cannabis cultivation, intended exclusively to meet the treatment needs of one or more residents living in the property and links the hypothesis of domestic cultivation necessarily to an authorization from the Federal Health Authority, by judicial decision or by virtue of Federal Law, as provided for in art. 2, sole paragraph of Law no. 11. 343 of 2006⁽⁴⁾.

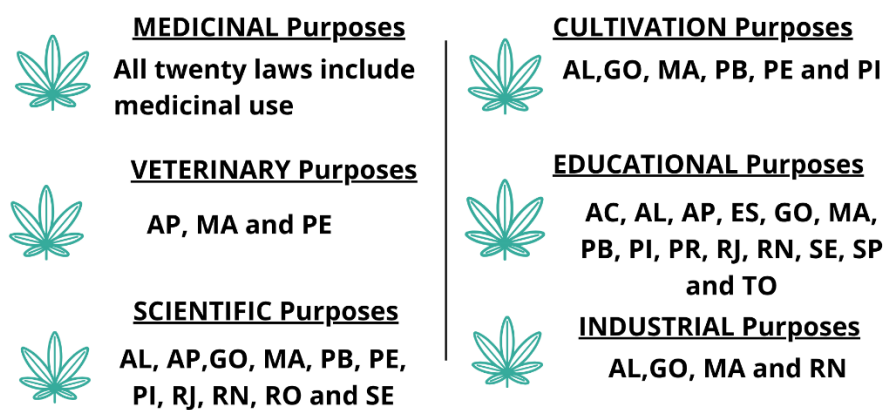
The states of PB and PI dealt objectively with this hypothesis without violating the competence of the Union. For patients, the state regulations on home cultivation are yet another element in the legal universe to reinforce the still fragile legal security of people living with conditions treated with cannabis and its derivatives, and also the people who live with these patients, even in conjunction with the latest decisions by the Superior Court of Justice (STJ) and the Federal Supreme Court (STF).

The STJ, in Incident of Assumption of Jurisdiction No. 16, in one of the theses of the Judgment, stated that the regulations for the medical and/or pharmaceutical use of cannabis issued by the National

Health Surveillance Agency - Anvisa, prohibiting the import of seeds and the domestic handling of the plant, should be interpreted in accordance with the provisions of Law No. 11.343/2006⁽⁴⁾ and established a six-month deadline for Anvisa and the Federal Government to legislate on the matter from the date of publication of the Judgment, which occurred on November 19, 2024.

The STF, on the other hand, in its General Repercussion of Theme 506, in Extraordinary Appeal No. 635.659, with Justice Gilmar Mendes as rapporteur, established that §2 of article 28 of Law No. 11.343/2006⁽⁴⁾ classifies as a presumed user anyone who, for their own consumption, acquires, keeps, stores, transports or brings with them up to 40 grams of cannabis *sativa* or six female plants, until the National Congress legislates on the matter. This decision brings more objective criteria and promotes a change in the stigma that patients/gardeners are drug dealers. However, according to the STF's thesis, this is a mere presumption and other elements can change this condition from user to trafficker even with a quantity of less than 40 grams or six female plants. Even if he is considered a user, the conduct is treated as an extra-criminal offense, resulting in the seizure of the plant and its derivatives, and warning measures about the effects and educational courses are possible sanctions to be applied to the patient by the judge in non-criminal proceedings.

Figure 4 - States with legislation for medicinal, veterinary, scientific research, cultivation, educational and industrial use



Source: Prepared by the authors based on the data collected.

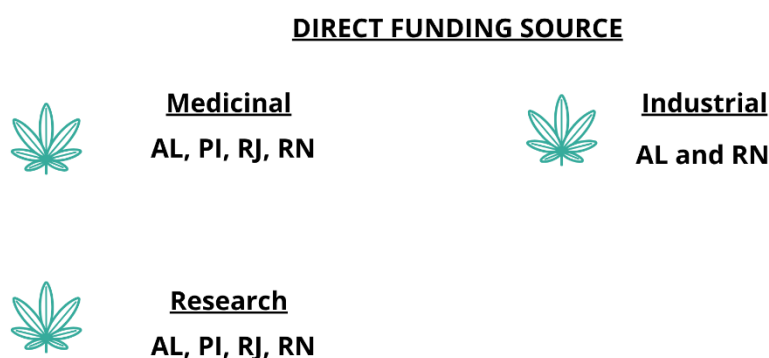
Figure 4 shows that all 20 laws in the sample provide for the use of medicinal cannabis. For veterinary purposes, only AP, MA and PE. Regarding the promotion of scientific research, the legislators of AL, AP, GO, MA, PB, PE, PI, RJ, RN, RO and SE made it a law. The approach adopted in the state legislations is in line with discussions at international level, which recommend the use of cannabis not only for medicinal purposes in humans, with the strengthening of scientific evidence and broadening of the prescription spectrum for the most varied diseases⁽³²⁾ as well as for veterinary use, also with promising reports⁽³³⁻³⁴⁾.

In the subcategory of cultivation, AL, GO, MA, PE and PI have legal provisions. MA's regulations stand out for mentioning family, quilombola and traditional agriculture, as well as establishing that agro-ecological practices and regenerative technologies for sustainable production

will be adopted for hemp cultivation, management and production. In the educational subcategory, AC, AL, AP, ES, GO, MA, PB, PI, PR, RJ, RN SE, SP and TO have in their regulations the hypothesis of training health professionals and the population in the medicinal use of cannabis.

Closing the purpose category with an analysis of the industrial subcategory are AL, GO, MA and RN. Of particular note is the legislation in AL, which has a legal arrangement where research and industry can go hand in hand, with the state funding itself through the FAPEAL. Patients who live in poverty in Alagoas and need access to medicines and treatment based on medical cannabis, on the other hand, have access through associations that have a financial guarantee from the State Fund for Combating and Eradicating Poverty - FECOEP. The legislation in Alagoas, however, does not guarantee the supply of cannabis-based medicines directly by the SUS via its own budget.

Figure 5 - States with a direct source of funding to guarantee access to medicines, research and industry



Source: Prepared by the authors based on the data collected.

Figure 5 shows the states of AL, PI, RJ and RN with legal provision for their own funding. The state of AL, as mentioned above, through FAPEL and FECOEP. The government of PI provides incentives through the Piauí State Health Department (SESAPI), the Piauí State University (UESPI), the Piauí State Research Support Foundation (FAPEPI) and the Integrated Rehabilitation Center (CEIR) through its own instruments for lines of research and the development of strategic cooperation relating to the medicinal use of cannabis and the establishment of quality and health safety standards. It also provides for the purchase of medicines, preferably from national entities, and the expenses arising from the implementation of the Law will be borne by the proper budget appropriations and supplemented if necessary.

The Rio de Janeiro law guarantees resources for the supply of cannabis-based medicines free of charge by the SUS with support from the State Fund for Combating Poverty and Social Inequalities (FECF) and for partnerships and agreements with research institutions and universities that are interested in or already conducting research with cannabidiol, such as the Vital Brasil Institute, the State University of Rio de Janeiro (UERJ), the Fundação Oswaldo Cruz (Fiocruz) and the Federal University of Rio de Janeiro (UFRJ). Finally, the Potiguar legislation provides for the government,

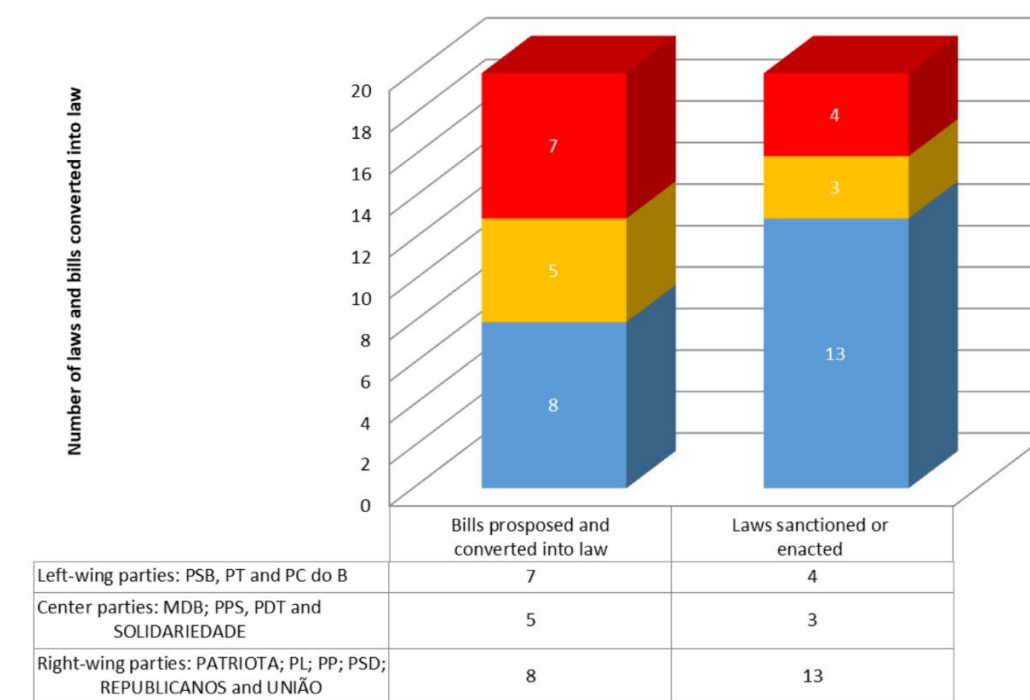
with its own resources, to guarantee access for anyone to treatment with cannabis-based products for medicinal use, as long as they have a doctor's prescription. With regard to financial incentives for research and industry, the text does not specifically mention which fund or institution will promote the financing instruments, but it does mention strategic cooperation regarding medicinal use and in the industrial sphere, as well as the signing of agreements or similar instruments with patient associations, research institutions, public and private universities.

Political analysis

In the case under analysis, it was observed that the right is the political spectrum that stood out most in the presentation of bills (PL) converted into law and that has more governors who have sanctioned laws on medical marijuana and other purposes. It should be remembered that in the sample there were no bills presented by the state executive branch, all of which were of parliamentary origin.

With regard to political choice, Kingdon⁽³⁵⁾ establishes that two groups of "participants in the game" are considered: governmental actors (including the central administration) and non-governmental actors. Cardoso de Matos⁽³⁶⁾ explains that, although non-governmental actors have greater power to block or prevent certain public demands from becoming public policies or laws, it is the governmental actors who, in fact, dominate the agenda and have decision-making power over legislative approval and the sanctioning of norms. There is a progression from a diffuse systemic agenda to a governmental agenda and finally to the decision-making stage. This perspective is relevant for assessing that regardless of the difference in the number of governors by political spectrum in Brazil, their sanctioning of the matter is discretionary.

Graph 2. Number of political agents who proposed and sanctioned/promulgated a bill on medical cannabis



Source: Prepared by the authors based on the data collected.

For the analysis of party ideology, Tarouco and Madeira⁽⁹⁾ state that, despite the ideological inconsistency of Brazilian parties, the left-right classification is recognized both by the politicians themselves and by analysts, making it a valid instrument for research into the effects of party ideology on other variables.

The result obtained contradicts common sense, given that it is traditionally the progressive camp that embraces agendas related to the fight for human rights and the right to health, as well as opposing prohibitionism. This action is recognized on the part of left-wing political actors and civil society, including organized social movements, academia, patient associations, activists and lawyers, who, in the last decade, have played a central role in defending patients through action based on strategic litigation⁽³⁷⁾.

Graph 2 shows that left-wing parliamentarians proposed seven bills that were sanctioned and four bills on medical cannabis were sanctioned/promulgated by governors or presidents of legislative assemblies. Center parliamentarians had five bills converted into law and three laws were sanctioned/promulgated. Finally, the right-wing spectrum had eight bills sanctioned and 13 laws sanctioned/promulgated.

Although the current scenario represents a snapshot and not a definitive one, it may reflect the normative progress made predominantly by the right-wing camp. The data indicates that the issue has been incorporated into the agenda of political actors from the right-wing spectrum, and is no longer just a left-wing agenda, demonstrating a significant change in the political scenario on the issue.

Conclusion

Historical analysis shows that cannabis has been used by human beings since the Neolithic period and, in Brazil, it accompanied the arrival of the Portuguese and Africans, already having medicinal, industrial and cultural uses. However, prohibitionism gained strength in the country at the beginning of the 20th century, with legal restrictions and bans that impacted on the development of research and the production of medicines derived from the plant.

The case of Anny Fischer in 2014 and the clandestine initiatives to distribute cannabis oil to patients in 2016 set a new political, social and legal milestone in the issue of cannabis-based medicines in Brazil. A decade later, there is no national public policy on the production of and access to cannabis-based medicines in the SUS or any federal law passed on the subject, while the opposite is true of health legislation in the Brazilian states.

The study identified 19 ordinary state laws and one district law, sanctioned/promulgated between 2016 and 2024, which provide for access to or free supply of cannabis-based medicines, regulate research, cultivation (still dependent on other rules or judicial authorization) and promote the training of health professionals and the population, as well as the promotion and financing of industrial activity related to medicinal cannabis.

The result contradicts common sense by showing the conservative political camp taking an active role in setting the political agenda for the approval of state/district laws related to medical cannabis, a trench historically occupied by the progressive camp. In the context of the public policy cycle, the research identifies that the right-wing spectrum has started to incorporate the issue into the agendas of state assemblies and governments.

In short, the study shows a political phenomenon comparable to a silent explosion, marked by a sudden and quiet increase in legislative production in the states. This advance contrasts sharply with

the noisy stagnation on the national scene, in which the commitment and interest seen in the legislative assemblies and state governors' offices is not echoed in the National Congress and the Planalto Palace.

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Conflict of interest

The authors declare that there is no conflict of interest.

Authors' contributions

Barroso Junior M contributed to the conception/design of the article, data analysis and interpretation, writing of the article and approval of the final version. Alves SMC contributed to the conception/design of the article, critical review of the content and approval of the final version.

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