Exploring some complexities in reforming cannabis laws

Medicine | National Drug and Alcohol Research Centre | Drug Policy Modelling Program

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Aim of talk

➢ In the context of the ongoing conversations on reforming drug policy, the aim of this talk is to move away from the often polarised debate and to provide some points for consideration when thinking about policy options

Outline

➢ Recent advocacy for change

➢ International activities

➢ Cannabis policy reform

    ➢ Policy issues to consider

    ➢ Regulatory frameworks for cannabis

    ➢ Potential strengths, limitations and unknowns

➢ Summary

Advocates for Change: Beckley Foundation

➢ Commissioned Professor Room and colleagues to draft alternative UN Drug Conventions*; 3 options included:

1. Amendments which preserve the present treaties' controls on international trade & the prohibition of domestic markets, but *explicitly state* that the decision whether or not to *criminalise non-commercial drug possession or use* was up to <u>individual nations</u> to determine.

2. Incorporates Option 1, but also states that it is the *nation's* responsibility to determine whether or not *to establish a regulated domestic market* for non-medical use

3. Reduces the extent of international controls on the market and supply through differentiating between substances according to their potential harm to public health and their therapeutic values.

Advocates for change:
Global Commission on Drug Policy

> 19 Commissioners including: human rights activists, former Sec Gen of the UN, former leaders (Greece, Brazil, Columbia, Mexico, Switzerland); former Secretaries of State (US, Germany)

Objectives:

> To review the 'war on drugs' approach

> To evaluate the risks and benefits of different national responses to the drug problem

> To develop actionable, evidence-based recommendations for constructive legal and drug policy reform

> Concluded, as have others, that the war on drugs has failed

 – "Vast expenditures on criminalization"

 – "Devastating consequences"'

Advocates for Change: The Global Commission on Drugs*(cont'd)

Key Recommendations

➢ End criminalisation and stigmatisation

➢ Base policy/ laws on solid empirical and scientific evidence

➢ Encourage experimentation with models of legal regulation of drugs

*War on Drugs. Report of the Global Commission on Drug Policy (2011)

Advocates for Change: Overcoming international laws

Room and Reuter* (2012): 4 options for overcoming international laws

1. Amend international treaties (unlikely as consensus is required)
2. Individual countries adopt regulatory systems for domestic purposes while adhering to treaty obligations to control international trade (contravenes treaties)
3. Withdraw from one or more of the international conventions and then re-accede. This is a recognised option in law (Bolivia).
4. Group of countries develop new treaties

* Room, R., Reuter, P. (2012) How well do international drug conventions protect public health? Lancet

International activities

➢ Reduction or elimination of criminal penalties, or use of civil penalties (Czech Republic, Mexico, Portugal, Brazil, Columbia)

➢ South American countries – several leaders have publically indicated the desire for change in drug laws

➢ Voters in the states of Colorado and Washington will be asked to decide whether to legalise the recreational use of cannabis

Achieving cannabis policy reform

Having identified the problem what is the solution?

- "no amount of devastating critique of prohibition will achieve very much unless a convincing case for an alternative policy is made" (Transform Drug Policy Foundation, 2007)

Primordial soup: some of the issues to consider when contemplating cannabis policy reform

- Impact on rates of (harmful) use
- Youth access and uptake
- Impact on health (mental and physical)
- Impact on educational attainment among youth
- Human rights of those who wish to consume cannabis
- Impact on criminal justice system

- Impact on employment
- Impact on price
- Stigma
- Impact on black market / gangs
- Rates of treatment uptake for dependence
- Taxation revenue for government
- Public opinion
- Media reaction/ position
- Is there political leadership

Regulatory frameworks for cannabis – which one? (numerous sources)

Completely criminalised

Illegal with cautioning/education for possess/use

Illegal but civil fines for possess / use

Possession for own use permitted, but supply remains illegal

Medical use permitted, illegal otherwise

'Coffee shops' permitted with limited supply; supply of larger amounts illegal

Legalised but highly regulated (i.e. Monopoly supply, prices controlled, no advertising, age restrictions, licence to purchase, restrictions on where used)

Legal with fewer restrictions (i.e. similar to existing alcohol industry)

Legal with few regulations: (i.e. age restrictions, some control on advertising, but no restrictions on quantity grown, on sales & distribution)

Completely unregulated

Option	Potential strengths	Potential limitations	Important unknowns
Illegal with formal cautioning/ education	• Likely no impact on rates of use • Potential ↓ in personal stigma • Fewer individuals with criminal record • Small ↓ in CJS costs • Potential ↑ in treatment uptake • Price not affected	• Use not legal • No mechanism to impact on corruption, black market or gang activity, • Potency and quality of cannabis remain unknown • No potential for taxation revenue • Youth access remains unchanged	• Societal and political views
Illegal with civil fines	• As above • Potential revenue	• As above, plus • Unpaid fines may result in accumulated debt, loss of licence, imprisonment	• Societal and political views
Possession for own use legal, but supply illegal	• As above, except those who wish to consume cannabis may do so legally	• As above • Odd situation of possession being legal but supply not	• Impact on rates of use and any subsequent health harms

Options	Potential Strengths	Potential Limitations	Important unknowns
A. Medical use permitted (**unregulated**) illegal otherwise	• Access for those with medical certificate; • Requires visit to a willing GP • may ↑ uptake of treatment for dependence • Minimal regulation	• Medical use becomes a 'backdoor' method of access • GPs become gate keepers • No mechanism to dismantle black market/ gang activity • Potency and quality remain largely unknown • Youth access remains unchanged	• Costs to implement such a system • Views of Australian medical practitioners
B. Medical use permitted (**regulated**), illegal otherwise	• Access for those with medical certificate • Cannabis treated as a legal medicine – TGA • Requires a legalised supply	• GPs required to be gatekeepers • May require additional scientific evidence (TGA) • Two tiers of consumers – medical need and social use • No mechanism to impact black market /gang activity, • Potency and quality remain unknown	• Process for the TGA • Impact on price • Regulatory framework

Options	Potential Strengths	Potential limitations	Important unknowns
Legalised but highly regulated (for example, monopoly, prices controlled, no advertising, age restrictions, licence required to purchase)	• ↓ in CJS contact •No advertising •Avoids advocacy by industry •Control of supply, and price •Potency / quality monitoring •Age restrictions on legal supply • ↓ access to 'hard drugs' •Respects the right to consume cannabis	• Attempts to control price may lead to price cutting by black market • Maintaining price may be difficult & undercut by black market sellers •Types and potency of cannabis may be restricted– users may not prefer these controls	•Impact on black market and corruption •Impact on harmful use •Costs of enforcing the regulatory framework •Health burdens •Impact on educational attainment (if use ↑) •Effectiveness of methods to control price •Potential taxation revenues
Legalised with limited regulations (for example, age restrictions, no licences, open competition)	•Less bureaucracy required •Open competition •Lower prices •Age restrictions •Potency / quality monitoring •Decline in price •↓ access to 'hard drugs' •Respects the right to consume cannabis	•Price decline •Taxation revenues minimal •Use will likely increase as social acceptability increases • Potential increase in social & health harms	•Impact of advertising and advocacy •Impact on price with competition •Actual impact on black market and corruption •Impact on rates of harmful use

In summary

➢ It appears, that although the problem (failure of the War on Drugs approach) has been identified, there is now a need for development and articulation of specific solutions

➢ Uncertain as to whether the policy window is open

➢ There are a range of possible models each with their own strengths and weaknesses

➢ And while we know more about depenalisation options there is much to learn about potential legalisation options (rates of harmful use, other harms, types of regulations, impact on organised crime)

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