

## HOW DOES THE LEGAL REGULATION OF CANNABIS COMPARE TO THAT OF OTHER ILLICIT DRUGS?

### *The merit of health arguments in the legalization debate*

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In a growing number of countries, the ideas on cannabis are in flux to the extent that there is a realistic prospect of greater leniency (decriminalization or even legalization). The most important basis for the prohibition of drugs is the conviction that it is the duty of the state to protect the population against drug-related health risks, i.e. toxicity and dependence (addiction). (Other reasons are also given for the prohibition, such as the negative effects on third parties, and moral objections to substances that produce any kind of high at all, even if they do not cause any problems, but in this paper the focus is on health arguments.)

Advocates sometimes use the argument that legalizing cannabis would make it possible to concentrate all the efforts on combating “really dangerous substances,” the so-called hard drugs. The idea is that cannabis can be legalized because the health risks are limited, but the other illicit drugs are *so dangerous that they should be fought even harder*.

Since health risks constitute the official justification for the prohibition of drugs, it seems logical to counter with the argument that in the case of cannabis, the risks are very limited. In this paper, the Netherlands Drug Policy Foundation (NDPF) contends that this use of the argument is erroneous, even though the facts are accurate. The NDPF expressly states that the legalization of cannabis should not be at the expense of the users of other drugs.

A general scientific consensus has emerged in recent years to the effect that the health risks of cannabis are small compared with those of alcohol and cigarettes. With this in mind, the surprising thing is that there is still a need to conduct serious discussions about the legalization of cannabis. More and more people are realizing the prohibition of cannabis was a mistake. So why is it wrong to argue that cannabis is a safe substance?

1. It is not completely true. The health risks are remarkably limited, but cannabis is not completely harmless. In fact it is the other way around. There ought to be a special legal regulatory system for cannabis because its use definitely does entail health risks. If cannabis was completely harmless, the same rules could be applied as to tea. Cannabis should not be made freely available, but the rules on cannabis can be very general and lenient. More detailed rules can be formulated for other drugs. (If post-legalization experiences make it necessary to amend the regulations, it will be easier to make them more flexible than make them stricter again.)

Learning to control one’s use is not only necessary for the other drugs, the same is true of the use of cannabis. And harm reduction is also advisable with respect to cannabis use. For example, smokers need to be urged to stop the harmful habit of inhaling the smoke of a joint as deeply as possible and waiting as long as possible before exhaling it. This way of smoking can probably be explained in part by the excessively high price that has to be paid for this natural product, and in part by what is still its alternative or marginalized status.

2. If the argument favouring greater legislative leniency were based on how harmless cannabis was, it would imply that the prohibition of substances with more severe health risks could be justified. The experiences of the twentieth century have shown however that the war on drugs does not reduce health risks, it heightens them. Due for example to the unsafe ways of administering drugs, the addition of other substances, and the unnecessarily hazardous patterns of use, this holds true for the toxicity as well as the chance of dependence.

It is precisely because of the health risks that it is so irresponsible of governments to forbid drugs and thus offer as it were this lucrative trade to criminals.

The Netherlands Drug Policy Foundation is of the opinion that health risks do not underpin drug prohibition in any way. Other measures would be more effective in restricting and controlling the

health risks, measures that would focus policy on stimulating informal norms and personal control over drug use.

3. The differences between various drugs are not absolute, they are gradual. The arguments in favour of legalizing cannabis apply all the more to other illicit drugs: their prohibition only increases the health risks and puts the market in the hands of criminals.

Every observed or assumed health risk of an illicit drug reinforces the defence of the legal regulation of its production and sale. In other words, it is not the exact extent to which a substance is dangerous that is decisive as regards whether it should be prohibited or legalized. This does not mean health risks are unimportant, it just means they should be addressed at a different point in the discussion, namely when the regulations are concretely stipulated.

This line of reasoning in favour of legalizing all the drugs that are now illegal is general and consistent, and does not mean the Netherlands Drug Policy Foundation is abandoning the distinction between soft and hard drugs. This is however not an absolute distinction, it is a gradual one. The Dutch policy, focused as it is on separating the markets in a relatively tolerant but still nonetheless prohibitive system, has some important advantages. In a legalized system, no strict division is called for. The availability of substances of different potencies can be regulated in much the same way as alcoholic beverages.

And if cannabis proves to produce more serious health risks in the future, should it lead to a prohibition after all? No. It would only reinforce the line of reasoning in favour of a legal regulatory system.

4. The dynamics of a political policy change is such that compromises have to be made, certainly in the case of such a controversial issue. The persistent way that cannabis is presented as an extremely dangerous substance in some countries, especially the United States, contrary to what science and practical experience have shown, can be seen as a preview of the discussion on the other drugs. Even the most confirmed prohibitionists must realize by now that there is no stopping the legalization of cannabis. But they are charging a price: an intensification of the repression of the other drugs.

## Conclusion

It is high time cannabis was legalized, but not at the expense of the users of other illicit drugs. What have we learned from the experience with the Dutch soft drug policy? After the virtually complete decriminalization of cannabis use and small-scale trade, its use has largely been normalized, and the nature and seriousness of problematic use have not become any greater than in the surrounding countries. In other words, the assumptions the prohibition of drugs is based upon have been refuted. So there is no reason to intensify the war on other drugs. There is a need for reflection. All drugs entail health risks, some more than others, and a legal regulatory system is needed that optimally reduces these risks and makes them manageable. The international cannabis conferences that have been announced should not become a smokescreen preventing a serious discussion of the larger issue: How is society to deal with drugs in the twenty-first century?

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