The future of science-based cannabis scheduling

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Transnational Institute (TNI)
[A summary of this statement was presented by Dania Putri]

Thank you Mr. Chair for giving me the opportunity to speak on behalf of the Transnational Institute.

Ladies and gentlemen.

Today, the CND voted to adopt recommendation 5.1 (to delete cannabis and cannabis resin from Schedule IV of the 1961 Convention) of the WHO.

Though long overdue, this will give hope to millions of people whose suffering is eased by cannabis. With the removal of cannabis from Schedule IV of the 1961 Single Convention, the medicinal usefulness of cannabis can no longer be denied. This strengthens the international legal basis for medicinal cannabis programmes, which can now be found in more than 50 countries.

In strictly legal terms removing cannabis from Schedule IV is not a major change, because the recommended prohibition of cannabis including for medical purposes, that comes with Schedule IV substances, was never obligatory. Nevertheless, we welcome this historic step taken today. The WHO has now given an unequivocal sign of support for medical cannabis programmes and the treaty will no longer advise against it.

The Transnational Institute has also expressed concerns about several of the recommendations, so voting against those in no way equals support for the status quo.[1] Nevertheless, the journey is far from over.

It is important, albeit painful, to note that the original inclusion of cannabis in the UN drug control system in 1961 was rooted in racism and colonialism – not in science. This has fuelled human rights violations that disproportionately affect communities of colour, and has severely impeded scientific research on cannabis-based medicines.

The WHO at the time, in the 1950s, bore a lot of responsibility for that decision and could have used this review process as an opportune moment to reflect on its own tainted history in this regard, especially at a moment when the issues of decolonisation and anti-racism have received so much attention. The obligation of full human rights compliance in drug policy, including indigenous,

[1] Dania Putri, *Cannabis rescheduling: A global introduction*, International Drug Policy Consortium (IDPC) & Transnational Institute (TNI), 15 October 2020; https://www.tni.org/files/publication-downloads/cannabis_rescheduling_global_intro_0.pdf

cultural and religious rights, also gained prominence on the United Nations agenda over the past decade, as reflected recently in 'UN system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration'[2]

The WHO Expert Committee on Drug Dependence's (ECDD) scientific assessment clearly shows that cannabis does not pose the same level of risk to health of other drugs placed under Schedule I of the 1961 Convention such as heroin and cocaine, but this was not reflected in the WHO's recommendations.[3] The WHO recommends keeping cannabis in Schedule I of the 1961 Convention, on the basis of 'the high rates of public health problems arising from cannabis use and the global extent of such problems'. This is not a robust argument for keeping cannabis in Schedule I, as the basic test for recommending the inclusion of a substance in either Schedule I or Schedule II of the Convention is the 'similarity principle', that is, whether the substance is 'liable to similar abuse and productive of similar ill effects as the drugs in Schedule I or Schedule II' or is 'convertible' into one of those drugs. Having recognised explicitly that this is not the case, it is hard to understand why the WHO would still recommend the inclusion in Schedule I. The 'high rate' and 'global extent' of cannabis use is not sufficient grounds, as the WHO itself has recognised that 'prevalence of use per se is not a good indicator of public health harm'.

Keeping cannabis in Schedule I is not a logical conclusion from the outcomes of the expert critical review. Following on from the findings of the critical review, cannabis and resin could be down-scheduled to Schedule II or even be taken out of the lists altogether. A more logical scenario would have been to introduce a new category of high potent extracts, such as butane hash oil with up to 80-90% THC, and recommend keeping those in Schedule I. Because those are the only cannabis-related substances for which the WHO did find significant health risks that could justify such strict international controls.

The WHO's questionable recommendation to keep cannabis in Schedule I and only delete it from Schedule IV, seems to have been influenced by the fear that it would trigger too much political controversy and would never pass a CND majority vote. This suggests that the formulation of the recommendations was influenced by political considerations and risk aversion, even if the scientific analysis of the ECDD was sound.

The review process also underscored the shortcomings and inconsistencies of the treaty system itself, which are not that easy to repair. The 1961 treaty has a zero-tolerant nature based upon the premise that raw plant materials and extracted concentrated psychoactive compounds have to be placed under the same level of international control. For the same reason, coca leaf ended up next to cocaine in Schedule I as well. This inherent 'nature' of the Convention, as the ECDD acknowledged, limited their options in terms of the type of recommendations they could present. This is worrying, as it serves as a bad precedent for future scheduling decisions and indicates that the Single Convention is too blunt an instrument to deal with the nuances required for a more effective control regime that can really protect the health and welfare of humankind.

Yet each year, more and more citizens and policymakers around the world are waking up from the decades-long illusion that cannabis prohibition ought to prevail. And let's not forget that cannabis serves as a source of livelihoods for millions of poor workers worldwide, especially those in formerly colonised countries – where cannabis cultivation was once legally promoted by colonial powers as a way to extract wealth from colonised peoples.

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2 CEB/2018/2, 18 January 2019 https://www.unsystem.org/CEBPublicFiles/CEB-2018-2-SoD.pdf

3 John Walsh, Martin Jelsma, Tom Blickman, David Bewley-Taylor (2019). *The WHO's First-Ever Critical Review of Cannabis*, Washington Office on Latin America (WOLA), Transnational Institute (TNI), Global Drug Policy Observatory (GDPO), March 2019; available at: https://www.tni.org/files/publication-downloads/who-cannabis-wola_tni_gdpo-march_2019.pdf

Today, we can celebrate a small victory, but the decolonisation and modernisation of the UN drug control treaty regime is only just beginning. The outcome of the six-year long cannabis review process, including two years of CND debate, has also demonstrated the depth of the political divide and the stalemate in Vienna. As more and more scientific evidence about the benefits and risks of cannabis continues to accumulate, this first WHO review on cannabis cannot be the last.

We need a follow-up process and regular updates of the critical review of cannabis-related substances to address the gaps in the WHO's recommendations, for the sake of improving the treaty system as a whole.

Thank you.

Dania Putri
Transnational Institute