

KONOPLJA, ETIKA IN DRUŽBENA ODGOVORNOST

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Povzetek: Razvrščanje drog je osrednjega pomena in predstavlja tudi etični okvir, ki nakazuje, da ima vlada dolžnost, da deluje v korist posameznih uživalcev drog in družbe na splošno. Članek obravnava nekaj spornih vprašanj v zvezi s politiko do konoplje in sodno prakso v Sloveniji ter prestrogim razvrščanjem te rastline, ki lahko povzroči več škode kot koristi in se zato lahko obravnava kot neetično in družbeno neodgovorno, saj je stopnja zlorabe in škode za javno zdravje zanemarljiva in ne opravičuje trenutnega represivnega nadzora. Izziv učinkovite politike do drog, v okviru parametrov določenih s konvencijami Združenih narodov (ZN), bo najti dokaze, ki temeljijo na racionalnem in humanem ravnovesju med restriktivnimi in permisivnimi načeli in cilji. Vendar pa je v preteklosti imel prednost represivni del in politični pomisleki so prevladali nad znanostjo in dokazi. Vse snovi, vključno s tobakom in alkoholom, morajo biti predmet istega sklopa znanstvene medicinske evalvacije, javnega zdravja in nadzora na področju družbene odgovornosti. Politično družbeno odgovornost ZN in nacionalnih ureditev v primeru nadzora drog je potrebno ponovno evalvirati.

Ključne besede: politika do drog, konoplja, zakonodaja, kriminalizacija, Slovenija

CANNABIS, ETHICS AND SOCIAL RESPONSIBILITY

Abstract: The topic of drug scheduling is of central importance and also generates the ethical framework, which suggests that a government must act for the benefit of individual drug users and society at large. The paper addresses some controversial issues regarding cannabis regulation policies and practices in Slovenia and overly strict scheduling of this plant, which may cause more harms than good and may therefore be regarded as unethical and socially irresponsible since the level of abuse and threat to public health is not significant enough to warrant the current control. The art of effective drug policy control, within the parameters set by the UN Conventions, is to find an evidence-based, rational and humane balance between restrictive and enabling principles and objectives. Historically, however, the repressive pole has been prioritised and the political considerations prevailed over science and evidence. All substances, including tobacco and alcohol, should be subject to the same set of scientific medical evaluations, public health and corporate social responsibility controls. The political social responsibility of the United Nations international drug control and national systems should be re-evaluated.

Keywords: drug policy, cannabis, legislation, criminalization, Slovenia

War Is Peace; Freedom Is Slavery; Ignorance Is Strength
George Orwell, 1984

Introduction

Cannabis has been in use for various purposes for thousands of years. In Asia, Cannabis has long been used in traditional medicine and religious rituals. In the nineteenth century, medical practitioners usually sold the plant as a tincture, and popularized its potential in medicine (Milčinski, 1983). Cannabis plant species can thrive in a wide range of climates both as a cultivated crop or a naturalized weed. This plant originates from southern and central Asia where it has been a considerable part of the natural flora before the prohibition (Milčinski, 1983). Before the Second World War, this plant was grown also in Slovenia and in many other countries all around the world.

However, the “war on drugs” initiative that had started in the early 70s of the 20th century introduced a set of drug policies that have been intended to discourage the production, distribution, selling and consumption of what was defined as the controlled substances or illegal psychoactive drugs. The global “war on drugs” failed, and left devastating consequences for individuals and societies, around the world. Cannabis plant was scheduled as the category of controlled substances that may not be prescribed by medical doctors because of its supposedly high potential for abuse and had no accepted medical use in medical treatment. However, Cannabis is a versatile plant with many possible uses and the demand for this plant is increasing again in spite of prohibitive laws. Today, it is cultivated in many countries again, for the production of fibres, cellulose and seeds.

In Slovenia, the production of Cannabis was revived primarily due to the seed production. The cannabis seeds are a rich source of unsaturated fatty acids, especially the omega-3 and omega-6 fatty acids. Therefore, their seed oil is becoming more and more valuable in the context of necessity for healthy food. High nutrition value and the versatile use of the cannabis seed may completely change the nutrition habits and reduce the consumption of meat (Rengeo, 2014). The by-products are straw fibres, whose potential as a versatile material has been underused. One of the first promoters of industrial cannabis revival in Slovenia was Dejan Rengeo who established the first new cannabis (hemp) plantations in Slovenia within the Goričko region. He reported that Slovenian cannabis producers did not plant the crop just for profit, but to return back to nature, to defy the social system, for pure child curiosity and gatherings at harvest time (Rengeo, 2014). All the above-mentioned characteristics testify that Cannabis plays a very important role in integrated and organic agriculture. In addition, the green parts of Cannabis contain a full range of cannabinoids, of which more than 70 different types have been researched and most of them have a significant pharmacological value in the treatment of many health problems. Most recent scientific and clinical investigations underscore cannabis plant potential as a treatment for a wide range of conditions and having analgesic, antiemetic, anticonvulsant, muscle relaxant, anti-asthmatic, antianxiety-antidepressant, even antitumor and some other effects and actions. However, the lack of responsible research, policy making and related clinical experience is a serious impediment to a realistic appraisal of the dangers of Cannabis and its therapeutic potential. The Slovenian Ministry of Health and government bias toward pushing THC only for scientific "purity" and the inability to grow or process medical cannabis by Slovenian farmers would appear to constitute another negative influence. It is gratifying that despite these difficulties some researchers at the National Institute of Public Health (NIJZ) are in favour of further research into the industrial, medicinal and recreational use of this plant. The authors of this report together with some other dissenting researchers have already reviewed the evidence based literature on cannabis use and determined that the potential for abuse and dependence of cannabis in general is low.

In this context, this paper will address some controversial issues regarding the cannabis regulation policies and practices in Slovenia and overly strict scheduling of this plant which may cause more harms than good and which is therefore regarded as unethical by the authors. The level of abuse and threat to public health is not significant enough to warrant current control. Therefore, the authors who are clearly in favour of educational and harm reduction measures over criminalisation recommend the rescheduling of cannabis to less strict regime. However, the political considerations prevail over science and evidence at this moment.

Exposing Cannabis Myths

Cannabis prohibitionists all around the world exaggerate the dangers of this psychoactive plant since the 1920s. The different claims on the dangerousness of Cannabis have gained prominence, but few have ever been abandoned. In 1995 John P. Morgan and Lynn Zimmer conducted extensive literature review on the health impacts and consequences of cannabis use and conclude that many of the "reefer madness" tales that were used to generate support for early anti-cannabis laws continue to appear in government and media reports today (Morgan, 1995).

Following the existing evidence criminal penalties for cannabis offenses were lessened and a number of states moved in the direction of decriminalization in the 1970's. However, in response to political concerns about cannabis's potential toxicity, many countries including Slovenia renewed the “war on cannabis” and the danger of Cannabis continued to be debated in the scientific literature. Since then, both the research and the dissemination of the sensitive and often contradictory findings have been highly politicized. Despite the vast expansion of harm reduction efforts concerning heroin and other opiates injecting, indeed, the governments' role seems to have become a service for the international “war on drugs”.

Unlike many medicines commonly prescribed by doctors, cannabis use has no risk of overdose or physical dependence. In addition, while cannabis has potential side effects like with any medicine, it is the experience of many medical cannabis patients that the side effects of cannabis are less in number and intensity than the side effects of more traditional medicines used to treat their condition (Hunt, 2001). The data from the studies, published in numerous books and scholarly journals, covered such matters as cannabis's effects on the brain, lungs, immune and reproductive systems, its impact on personality, development, and motivational states, or its addictive potential.

Even more, in the last couple of decades, we are eagerly battling the “war on drugs” with the aim to reduce or even eliminate illicit drug supply and demand. Nevertheless illegal and prescribed opioids remain “the biggest burden of disease and drug-related deaths worldwide”. According to the World Drug Report 2014, published by UNODC, opioids use is especially high in North America, Europe and Asia, followed by the Near and Middle East. It is often referred that global society has reached a point of the so called 'prescription drug crisis' in recent years. The dependence on prescription opioids has caused high mortality among users, by which drug overdose is the primary contributor to the global count of drug-related deaths. Cannabis on the other hand has several advantages as a substitute for opioids, as it enables the user to function more fully in daily activities and work, unlike with many prescription opioids that can have stronger side-effects. According to scientific evidence Cannabis is performing as well or better than many currently available anxiolytics/antidepressants or analgesics prescribed for the same symptoms and is even supplementing or decreasing the use of more potent drugs (Aharonovich, 2006; Gamage, 2014; Hornby P, 2009; Morel, 2009; Lynch, 2003; Neelakantan, 2014; Raby, 2009; Reiman, 2009; Scavone, 2013).

Although scientific studies did not answer all remaining questions about cannabis toxicity, they generally support the idea that cannabis is a relatively safe drug - not totally free from potential harm, but unlikely to create serious harm for most individual users or society in general (Krumdiek, 2007). Further studies are therefore needed on a national and international level, which are in accordance with physical, psychological and social effects of cannabis use.

Drug Scheduling

The classification of a substance within a graded system of controls and restrictions (scheduling) must take place in order for a psychoactive plant or any other potentially dangerous substance to be included in the international control framework, and determines the type and intensity of the applied controls. The topic of drug scheduling is thus of central importance and also supplies the ethical framework, which suggests that a government must act for the benefit of individual drug users and society at large.

The UNs' major drug control treaties currently in force are 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 that are organized around two core imperatives – one is restrictive in nature, and aims to limit access to controlled drugs and to prevent their manufacture, distribution and possession for pleasure, recreation and entertainment; the other is enabling in nature and aims to ensure the availability of controlled drugs for medical and scientific purposes (Hallam, 2014). Social responsibility means sustaining the equilibrium between the two. This responsibility can be passive, by avoiding engaging in socially harmful acts, or active, by performing activities that directly advance social goals. The former means sustaining the equilibrium within the parameters set by the UN Conventions. Historically, however, the repressive pole has been prioritized, though the present debates are increasingly highlighting the need to modify the balance of the system in order to affirm the importance of the principle of health (UNODC, 2014).

Because of this, some researchers and other professionals in the field of drug policy have dissent opinion and were expressing disagreement with the majority opinion represented by the UN Conventions and related national

scheduling and legislation. In Slovenia, psychoactive plants, drugs and certain other substances used to make drugs are classified into three distinct categories or schedules depending upon the drug's abuse or dependency potential and the acceptable medical use. The supposed abuse rate is also a determinate factor in the scheduling of drug. Cannabis in Slovenia is considered as Schedule I drug, which is the most dangerous class of drugs with a high potential for abuse and potentially severe psychological and/or physical dependence. As the drug schedule changes into schedule I and schedule II, so does the supposed abuse potential. Schedule III drugs are claimed to offer the least potential for abuse. However there are many inconsistencies of scheduling under the current international drug control Conventions on which the Slovenian drug legislation is based. A fundamental structural inconsistency in the system came about as a result of the political manoeuvring underlying the treaty's design, which saw the developed countries lobbying on behalf of their domestic pharmaceutical industries; it also reflected their cultural preference for scientifically produced synthetic drugs, as opposed to the more raw and untreated plant-based materials still in use in the developing world (Bruun, 2000; McAllister, 2000). Those recreational substances, such as alcohol and tobacco that are thoroughly embedded in western culture were not even classed as drugs, and remained outside the system. This caused further problems for the WHO, whose health-driven mandate and scientific ethic has proven difficult to adapt to the licit/illicit structuring of the drug control system (Hallam, 2014).

The UN scheduling system has been centred primarily on three model substances and/or effects: morphine-like drugs/effects, cocaine-like drugs/effects or cannabis like drugs/effects. In this context, the basic principle informing the classification of substances under the UN Conventions is often called the 'similarity principle' (Hallam, 2014). Aside from the difficulties in specifying the precise nature of such a 'similarity', it is important to recall that these three substances have not themselves been reviewed for a very long time (heroin since 1949, cannabis and the coca leaf since 1965) (Danenberg, 2013).

Thus, the substances that provide the foundation for the entire scheduling system, and operate as a model for psychoactive and other substances requiring control, themselves remain unanchored by contemporary research evidence. The reviews carried out by the Expert Committee of the WHO on the real dangers of substances should be a key aspect of the system. The WHO emphasize the priority of health principle within the important task of assessing the risks associated with the use of particular substances and allocating measures that are appropriate to the degree of risk involved. Where this risk assessment is not properly carried out – as in the case of cannabis, which is a glaring historical error – it brings the entire system into disrepute (Hallam, 2014). However, the WHO's treaty mandated scheduling recommendations are frequently rejected or stymied by the CND, which, as the policy-making body of the international drug control system, is invested with decision-making powers (Hallam, 2014). The WHO's Expert Committee on Drug Dependence (ECDD) in scientifically reviewing substances for scheduling is not enough respected and adequately funded. Most countries do nothing to address what is perhaps the core problem, not only at the international level but also at national levels: the difficulty of balancing the analyses of expert bodies such as the WHO's ECDD against the often overtly political imperatives in play at the CND. CND should have to justify its decision on the scheduling under explicit and transparent criteria. The scheduling of cannabis in the UN system is a historical anomaly, and should be reviewed at the earliest opportunity (Hallam, 2014).

Political and corporate social responsibility (CSR)

Legislation that corresponds to the international conventions of the UN is a cultural institution and social fact that divides world drug trade into illegal vs. legal, according to geopolitical issues. There has been much professional criticism against the schedule classifications of the listed drugs, citing undefined terms. Drug abuse may refer to any type of substance without regard to its pharmacological actions. It is an eclectic concept having only one uniform connotation: societal disapproval. Some professionals believe that the term drug abuse must be deleted from public policy dialogue because the term has no functional utility and has become no more than an arbitrary code-word for drug use which is presently considered wrong. Also, both tobacco and alcohol have high potential for abuse, are addictive and have no currently accepted medical use in treatment, but are not scheduled on the list. Alcohol and tobacco are legal and they cause more harm to individual users and societies than all illegal drugs combined. Hence it is speculated that tobacco and alcohol are legal because the tax revenues are huge. Moreover, the Corporate Social Responsibility (CSR) has become an integral element of the tobacco and alcohol industry's self-representation and image. In its original

sense, the term CSR is defined as a moral and stakeholder obligation, emanating from a notion that business is responsible to society in general; thus, corporations should be answerable to those who directly or indirectly affect or are affected by a firm's activity. These involve some sort of sponsorship schemes, public awareness talks or dialogues education programs, networking events, and partnerships with government as well as voluntary codes of practice for marketing and advertising (Sage Editors, 2012; Banerjee, 2008).

Whereas the overall value of the industries' CSR remains questionable, some public health advocates note the fundamental contradictions between the tobacco and alcohol industries' claims of responsibility and their continuing promotion of psychoactive products. The research in social responsibility has been relatively sparse on how the industries and political organizations advance social responsibility in an attempt to facilitate underlying business, political and other interests, and in what ways the ongoing display of the social responsibility impacts public health. CSR in the case of tobacco and alcohol might only give the illusion of righteousness and should be evaluated. To what extent social responsibilities should be made legally enforceable remains a matter of some fierce debate. There are already regulations that bind corporations in respect of such "social" issues as health, safety and human rights protection. But should there be broader but specific public health and human rights coverage, especially in countries where there are well-documented examples of abuses? From the evidence based medicine point of view, all substances, including tobacco and alcohol, should be subject to the same set of scientific medical and public health evaluations, scheduling rules and corporate social responsibility controls. Since this is not the case, the social responsibility of the UN's and national governments' drug control systems should be questioned and re-evaluated. This should include the notion that these systems might have failed in terms of social responsibility and human rights regulations.

Moreover, drug policies all around the world are changing. Cannabis has been regulated for medicinal and/or recreational purposes in several countries. Considerable parts of societies (politicians, professionals, NGOs', activists, drug users and others) have established Cannabis Social Clubs (CSC), "coffee-shops", drug consumption rooms and call for a regulated drug market. This market will imply CSR policies. One could imagine a CSR policy that goes beyond governments' involvement, such as harm reduction programs funded by drug industries (raising public awareness, training of professionals, funding treatment and rehabilitation programs). What the CSR policy would be regarding these new drugs industries remains unclear.

Meanwhile, the WHO, which is the body charged by the UN international drug control conventions with the scientific and medical review of scheduling proposals, had been marginalized. WHO is the one key element of the drug control system mandated to the structures caring for the health-care principle. Recently, however, another UN body – the International Narcotic Control Board (INCB), which is the autonomous and quasi-judicial monitoring UN body for the implementation of the UN international drug control conventions, appears to be taking an increasingly active role in discussions around the decision-making process, thereby arguably exceeding its mandate (Hallam, 2014). This INCB expansionism is linked to a general trend toward the marginalization of the WHO, which has the mandate to make scheduling recommendations, and conflicts with the intended re-balancing of the system towards health and human rights. Restrictive interpretations of treaty provisions have already resulted in poor access to some medicines; this is also the case with medical cannabis in many countries, including Slovenia. Moreover, the emergence of multiple new forms of drugs and intoxicants in the shape of new psychoactive substances (NPS) has introduced an unprecedented urgency into the problems of scheduling to respond to a fast-moving recreational drugs market. The Conventions possesses provisional scheduling measures, which can in theory be initiated in order to meet urgent problems. However, a major problem with provisional scheduling in general is that substances are subjected to controls prior to a thorough scientific, medical and public health examination by the WHO's Expert Committee on Drug Dependence (ECDD), a body composed of specialists in these fields. Such circumstances may pose a potentially serious set of challenges for the health-related pole of the system should substances be inappropriately classified, playing into the sense of regulatory panic that threatens the re-balancing of the UN drug control system (Hallam, 2014).

Such trends are frightening in their effects. They indirectly attack evidence based efforts to lessen the negative impacts of drug use and are creating a crisis in harm reduction efforts. The justification is that public officials should be able to invoke any available and effective means to counter the spread of drug use. However, these reasons are entirely counter-productive and they must be challenged since the prohibition system and laws are difficult and degrading to apply. Far from protecting people and societies, criminalization victimizes, oppresses and endangers them.

Criminalization is ineffective and criminal prosecutions are a misguided substitute for measures that really protect those at risk. Criminalization assumes the worst about people who use drugs, and in doing so it punishes vulnerability and increases stigma. Also, criminalization is often unfairly and selectively enforced. Prosecutions and laws most usually single out already vulnerable groups. In light of all of this, the clear goal should be to fight against criminalization, stigma, discrimination, effective prevention and treatment and the availability of controlled drugs for scientific and medical purposes.

The case of criminalization of drug/cannabis users in Slovenia

The Slovenian drug policy and legislation is based upon the UN Conventions and scheduling which means that it has also introduced many conceptual and classification problems, “pharmacological determinism” within the drug control system. It is, however, becoming increasingly clear to public health researchers that the effects of cannabis and other substances are not caused solely by their chemical makeup, but are powerfully influenced by the dosage and mode of administration, by cultural beliefs and suppositions surrounding their use, the legislative and enforcement context, the policy setting, social representations toward drug consumers, the age, the physical and psychological determinism of the user, the subcultural setting and the role of the drug in identity formation, and so on (Angus, 2009). The incoherence of the current UN scheduling system is of policy relevance in its influence on the decisions regarding regulatory controls at the national level. There are multiple problems in this respect.

The Slovenian drug policy makes a distinction between misdemeanours and felonies in the field of drugs that are handled by the Production of and Trade in Illicit Drugs Act (ZPPPD) and the Criminal Code (CC-1).

ZPPPD is based upon the scheduling system and provides penalties for committing the offence of possessing a smaller quantity of illicit drugs for personal use and for possession of illicit drugs contrary to the Act, as well as producing or releasing illicit drugs into circulation in contravention of the provisions of this Act. ZPPPD clearly states in the Article 31 that the production of illicit drug is a misdemeanour, and therefore liable to a monetary fine. Fines are ranging from 41.73 € to 208.65 € and 208.65 € to 625.94 € or a prison sentence from 5 days to up to 30 days. The possession of illicit drugs is considered a misdemeanour by the Article 33, which includes the paragraph about less severe punishments in cases of voluntary entering into treatment programs. The later presumes that each drug user is abusing the substance, which contradicts the fact that most drug users, don't get addicted to the drug. Similarly as, not all that drink alcohol are alcoholics. ZPPPD also does not lay down limits of minimum allowed possessed quantity of illicit drugs nor how much the quantity of illicit drugs for personal use is. It is at the discretion of the police and court to decide in a particular situation how much the ‘small quantity’ of illicit drugs is (Dobovšek, 2013). It remains unclear what is considered under 'personal use' and the legalization of the levels for all illicit drugs under which the possession of illicit drugs would be treated as a misdemeanour, and above which the possession would be treated as a felony are therefore necessary.

A newer version of the Criminal Code was introduced in 2008. Penalties for felonies related to illicit drugs remained more or less the same. A new paragraph was added in the Article 186, which incriminated selling, offering and sharing illicit drugs free of charge in educational institutions or in their immediate vicinity, in prisons, military units, public places. The penalties in Article 187 were increased and expanded to criminalize the involvement of a civil servant, priest, doctor, social worker, teacher or educator, who induces others to use illicit drugs. Sanctions of the CC-1 for felonies related to illicit drugs are set in Articles 186 (Unlawful Manufacture and Trade in Illicit Drugs) range from 6 months to 15 years imprisonment and in article 187 (Rendering Opportunity for Use of Illicit Drugs) from 6 months to 12 years imprisonment. The penalties are about the same or slightly less strict than the penalty for manslaughter (5-15 years of imprisonment). The difference between manslaughter and trade in illicit drugs is therefore negligible according to law.

According to the constitutional judge Mitja Deisinger, 'manufacturing of drugs' is a certain activity of the perpetrator, which leads to the production of the drug. The cultivation of poppy, cannabis or coca plants on itself should therefore not be considered a criminal offence. Only procedures carried out on mature plants can be persecuted. Also the use of drugs is not considered a criminal offence. The quantity of drugs in relation with the user's needs determines whether an act is a felony or a misdemeanour (Deisinger, 2002). However, the *praxis* in Slovenia reveals not only misinterpretation of the terms “manufacturing” and “trade” by law enforcement leading to the criminalization of users, but demands also a revision of numerous “quick trials” and “informal negotiation” strategies, as it will be discussed

later on.

The Slovenian drug law enforcement in practice reflects a severe gap between acts of legislation and their practical implementation. Individuals can be convicted for a criminal offence for possession of small quantities of cannabis (even less than 2 grams) or cultivation of a few plants regardless of the reason for manufacturing (e.g. self-medication; self-supply). Convictions are handed down even in the absence of any additional evidence of intent to sell and drug users are stigmatized either as criminals, drug addicts or even mental patients, although in fact they are none of those.

In a research conducted by the University of Maribor, the Faculty of Criminal Justice and Security at the District court in Ljubljana, 52 cases (between the years 2003 and 2012) were analysed. Sanctions with imprisonment prevail and most individuals are convicted for felonies related to possession or use of illicit drugs for personal use (in most cases the illicit drug is cannabis), despite the fact that drug use is decriminalized in Slovenia (Deisinger, 2002). One of the main problems identified are overloaded courts with cases of possession of illicit drugs for personal use (Kuhar, 2014). And as a consequence of the repressive policy, the Slovenian prisons are overcrowded compared with international standards – there were 1,404 persons imprisoned in 2012, while the capacity of all prisons is for 1,309 people (Dobovšek, 2013). There are several cases where drug users are sanctioned for felonies because of possession of larger amounts of illicit drugs, despite the fact that they are regular users and possessed the drug for personal use, not trafficking. Often the accused confesses to trafficking, although they possessed the illicit drug for personal use, because of the pressure of the prosecution and the possibility to lower the sentence (Kuhar, 2014).

In most cases the offenders are young people (between 18 and 53 years old), mostly men, unemployed and with low or no education. Approximately half of them were previously convicted for similar offences. There are also great differences in practice: while some police officers and judges punish offenders for possession of small quantity of illicit drugs very strictly, others do not see possession of a certain quantity of illicit drugs either as a misdemeanour or as an offence (Kuhar S., 2014). Such practices can be seen as inequality before the law and common rules of conduct and actions should be therefore introduced.

The number of arrests and the quantity of seized illicit drugs are not indicators for long-term success. According to the findings of the study, it would be reasonable to determine which activities are worth prosecuting in relation to financial means or time spent and which are not. The undefined quantity of illicit drugs for personal use indirectly and unofficially criminalizes drug users even in countries where drug use is decriminalized, such as Slovenia. And the overcrowded prisons are the result of such unjust actions (Kuhar S., 2014). We have to bear in mind that the individuals who are convicted of illicit drug trade because of possession for personal use are highly stigmatized as drug traffickers, often because of insignificant amounts of illicit drugs. Their career possibilities are even more limited with the conviction and they often come from prisons with 'newly accumulated knowledge and skills' or depend on other drugs. The vicious cycle is closed.

The number of seized cannabis plantations or grow-rooms has considerably risen in the last couple of years in Slovenia as well as the amount of seized cannabis. Each year the police increases the number of investigations for criminal offences related to cannabis such as trafficking or the cultivation of cannabis, and treat them as criminals, where in fact they are in most cases growing it for self-medication or to medicate a family member. According to some media reports, almost half of cancer patients use cannabis (oil, suppositories or dried plant) as self-medication in order to treat side effects of chemotherapy (Delo, Viva). There are indeed several reasons in favour of self-supply of cannabis (growing for personal use). Firstly, users want to know what they are consuming. The black market is an unreliable source regarding the quality of drugs. Secondly, users want to avoid drug dealers. Indoor grow-rooms are an effective and safe option for a lot of them. In the long-term it is a cheaper option, if compared to prices of cannabis or cannabis oil on the black market or in comparison to pharmaceutical products.

According to the annual reports of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) Slovenia has one of the highest cannabis seizure rates or recorded criminal offences and misdemeanours amongst the European countries. These high rates indicate excessive penalization of drug users rather than successfulness of law enforcement or high crime prevalence. According to official police statistics more than 50 % of all criminal investigations are in the field of drugs, mostly cannabis (at least 70 %). While the average ratio between criminal offences and misdemeanours related to drugs in the EU covers approximately 18% of criminal offences and 82% of

misdemeanours (EMCDDA, 2013), in Slovenia the average ratio is approximately 30% criminal offences and 70% misdemeanours. Even more attention is raised by the ratio between criminal offences and misdemeanours in the Police Administration Unit Murska Sobota (PAU MS) where the average is inverted with 70% of criminal offences and only 30% of misdemeanours (Ministry for internal affairs, Police). Once again a question can be raised about whether or not most drug offenders in Prekmurje are in fact criminals or users that were accused of, confessed to, and sentenced for crimes that they didn't commit.

Only recently, the Slovenian courts processed several trivial cases related to illicit drugs where a legitimate question remains whether these cases represent serious crimes compared to the harm and consequences a criminal record can have for the individual and his family. JP was sentenced to 4 months imprisonment and 1 year parole for growing 8 cannabis plants in his garden for his wife with multiple sclerosis and his son with diabetes. The adolescent DR was found guilty of illicit drug trade for approx. 4 g of cannabis and sentenced with alternative measures. DF was sentenced to five-month imprisonment for possession of 1.2 g of cannabis. MT was sentenced to 3 months imprisonment and 1 year parole for growing 6 cannabis plants. AZ was sentenced to 8 months imprisonment and 2 years parole for rendering opportunity for consumption. HŽ is still waiting for her proceeding to appear at the court after the police seized 5 cannabis (hemp) plants growing in her garden. She is an older, retired lady, who makes DIY hand-creams, soap bars etc. Most certainly she is not a criminal, evil drug trafficker or anything similar. Still she's being accused for a felony under the Article 186 for manufacture and trade of illicit drugs.

For comparison, when the largest opposition party of the National Assembly submitted a draft of the 'Law on mandatory testing of officials for illicit drugs' in the parliamentary procedure in 2011 that provided a mandatory test of each official once in the calendar year of its mandate for the presence of illicit drugs in the body, the proposal was rejected due to the argument that the law would 'excessively interfere in the privacy of officials' (Dobovšek, 2013).

In Slovenia, there are today more than 200.000 cannabis users and each year there are around 2,000 recorded criminal offences involving cannabis (Ministry for internal affairs, 1993-2012). Most of them end with the verdict "guilty". On the other hand we have only 70 recorded criminal offences per year involving corruption in case of which only few of them actually end with the verdict "guilty", most commonly because of lack of evidence (Commission for the prevention of corruption, 2005-11). In the last 10 years Slovenia processed almost 80,000 violations of law related to illicit drugs. Estimated 9,790,530.72 € were spent only in 2012 on reducing drug use and drug supply (NIJZ, 2013). In comparison with the European average the Slovenian user is experiencing three times more repression as a consequence of loosely defined laws, repressive apparatus and rigidity in science (Nolimal, 2014). On the other hand, not making arrests means not spending valuable time investigating, transporting prisoners and filling out paper work, not to mention court time and costs saved prosecuting drug users. That time could then be spent on investigating and enforcing other more serious criminal activities (Quiza, 2012).

A public health and human rights perspective should be a key driver in drug control policies, in particular service improvement for people who use drugs. Three international human rights treaties may have been particularly influential in this regard: the Universal Declaration of Human Rights (UN General Assembly 1948), the International Covenant on Economic, Social and Cultural Rights (UN General Assembly 1966a), and International Covenant on Civil and Political Rights (UN General Assembly 1966b). The rights derived from these and other sources should have a major impact on shaping drug control policies in EU and Slovenia: the right to liberty, freedom from torture and inhuman treatment; the right to privacy; and the right to non-discrimination. However, there is still a long way to go in many countries. Moreover, many cannabis and other illicit drugs users in treatment reported that the threat of criminalization or actual imprisonment of the drug user and the impact of stigma and discrimination was worse than the direct drug use symptoms. In this context, more emphasized human rights agenda within drug control policies can be very useful policy lever and adherence to basic human rights is an important indicator for social responsibility of UN bodies and national governments.

The case of illegal procedures in the Slovenian 'chambers of justice'

Since 2012, two great novelties came into practice in the Slovenian legislation considering the Criminal Procedure Act: the agreement on the acknowledgement of guilt and the pre-trial proceeding. Even before this novelty, the court had to gather additional evidence even if the accused has confessed to the crime. The judge has the obligation to respect the presumption of innocence in each individual case and at the same time the autonomy to make a decision upon all

gathered evidence not only on the basis of the confession.

However, the practice reveals that after 2012 the courts generally pass the sentence only on the basis of the acknowledged guilt and the number of confessions is especially high in the pre-trial proceedings. In the Office of the State Prosecutor report 2013 the Murska Sobota District Office is recording even higher numbers of confessions given at the pre-trial proceedings than at the second biggest Slovenian Office of the State Prosecutor in Maribor. One can quite legitimately raise the question whether in Prekmurje the people are outstandingly honest or do the judges and prosecutors benefit the most from the 'quick-verdict machinery' that criminalizes drug users?

Negotiations are an exemption rather than a rule in the accelerated court procedures. Many cases are closed after quick negotiations without advocates, recordings and control. And also without any kind of doubts in the reality of the confessions from the judges' side. More anomalies are carried outside the courtrooms, where the so called 'informal negotiations' are carried out and where the judges themselves encourage the accused to 'get a deal' with the prosecutor (Šugman Stubbs, 2015). This 'informal negotiations', which are a reality in the Slovenian court practice, are a clear violation of the law by those who represent the law. If this trend of uncritical lightness in the procedures continues, we will eventually run out of cases (Šugman Stubbs, 2015).

The Slovenian justice system benefits from the shortcuts and criminalizes people who either don't understand the procedure; are unable to set-up a defence; are acknowledging the guilt because of fear or insufficient knowledge; or aren't even guilty of the accused crimes. This has to stop now. Shockingly and sadly the judges and prosecutors are the ones who should be imprisoned, not young people, who grow cannabis and not to mention the medical users that are growing in numbers.

The suppression of the public health research

In many countries researchers are often involved in the making of public policies including those devoted to the development of drug policies and legislations. The common view is that researchers are morally responsible for the negative consequences, which result from the various applications of their knowledge and inventions. Furthermore, researchers have a collective responsibility for the choice and conduct of their work. Many research and professional institutions have ethical guidelines for the conduct of scientific research and related issues such as integrity, ethic and social responsibility. There is recognition that researchers, both individually and collectively, have a special and much greater responsibility than average citizens with respect to the production, distribution and use of scientific knowledge.

The basic principles of an evidence-based practice are that all decisions should be based on research studies and that these research studies are selected and interpreted according to some specific norms characteristic for evidence-based practice. Evidence-based policy is public policy informed by established objective evidence. It is an extension of evidence-based medicine to all areas of public policy, including alcohol, tobacco and illicit drug policies. Most of the research in the drug field funded by governments is mission-oriented, such as preventing drug use among youth and reducing harms by drug use, but there is lack of the research on the intended and unintended effects of drug control policies and their associated costs.

In all cases, where the application of scientific knowledge is well known *a priori*, researchers cannot escape responsibility for morally dubious research. Ignorance is not an excuse. Responsibility falls also on those who provide the funding for the research and drug policy developments, which in the case of medical cannabis and drug policies are government agencies such as the Ministry of Health in Slovenia. Most medical doctors and public health researchers in Slovenia never learned about medical cannabis in medical school. Until recently, they knew nothing about the endocannabinoids, cannabinoid receptor, therapeutic potentials and medical uses, how cannabis worked on a molecular level, its mechanism of action in the brain and body and its side effects or safety profile of the plant because most of them have not been following the discoveries of international scientists. Also, this information was not broadly available in Slovenia until 2014. Thus most professionals learned about cannabis and its medical uses from the available sources, which maintain that cannabis is a dangerous drug with no medical value. Some medical professionals acknowledged the remarkable therapeutic potential of THC, CBD and other psychoactive and non-psychoactive components of cannabis plant when they saw first-hand how seriously ill patients were benefiting from cannabis. Few of them, however, were intellectually honest enough to acknowledge in public that they were mistaken and probably misled by the government and international prohibitionist policies.

One of the factors to be considered when assessing the social responsibility of researchers and research institutions in the field of drugs and drug policy is the phenomenon of the suppression of dissent. The suppression of dissent occurs when an individual or group which is more powerful than another tries to directly or indirectly censor or otherwise oppress the dissenting individuals or groups, rather than engage with argumentative and constructive dialogue. Dissent with existing drug policies is essential to allow all points of view to be given and considered. However, when dissent is perceived as a threat, as in the case of cannabis “legalization”, action may be taken to prevent continuing dissent or penalize them. A disagreement on medical cannabis policy with the dominant view has come with many personal and professional risks. Some researchers even had to refrain from speaking on the medical potential of cannabis in public, which only demonstrated the current drug policy’s negative qualities.

Even more, the relevant public health research concerning medical cannabis at the National Institute of Public Health in Slovenia (NIJZ) with the commitment to ensure drug policies based on the principles of human rights and the concern of health and wellbeing of the population was discouraged. The project goal is to define the costs and adverse effects related to drug control policies and to identifying the costs carried by individuals and society related to the illegality of substances. One of the purposes of the project was also an analysis on how the cannabis plant should be downgraded in the process of rescheduling under the international law. It is unacceptable for a research institution to restrict certain activities because of its potential political unacceptability.

Conclusion

The prohibition brings up many ethical issues, such as whether or not the government should be allowed to govern what people do in their own, if it doesn’t harm anyone else and actually helps them medically. A balanced approach between supply and demand reduction-strategies by redistributing the resources allocated to drug control policies is needed, giving more attention to public health, prevention, treatment programmes and access to controlled medicines for medical and scientific purposes. The world drug problem requires an integrated approach resonating with the international law and particularly with the human rights and fundamental freedoms.

The limited impact of repressive drug policies in reducing drug markets, as well as the increased harms caused by these policies, has now been widely recognized. In many European countries such as Holland, where Cannabis use is legal or tolerated its consumption has been consistently lower than it has been in countries with prohibitive drug policy. Proving adequate education is a much better way to get a message across than making laws and arresting people. Cannabis use isn't primarily impacted by criminal penalties. Slovenia and many other countries have high rates of cannabis consumption among youth despite prohibition and possible severe penalties. Also, considerable number of adults and among them many patients with some debilitating diseases consumes cannabis for recreational and medical purposes, regardless of its illegality. Since it's now so widely consumed, many more people understand also that cannabis is less dangerous (and safer) than alcohol or tobacco and are increasingly sceptical of laws that treat them unequally.

The use of drugs cannot be considered as inherently irresponsible as it serves important individual or social needs and is often essential for our physical and mental well-being. A free society seeks to provide conditions for the self-fulfilment of individuals and the development of their potentialities to the fullest extent. This priority depends upon the capacity of free citizens not to abuse their freedom, and upon their willingness to act responsibly toward others and toward society as a whole. Responsible behaviour, through individual choice, is both the guarantor and the objective of a free society.

Regarding Cannabis, the responsibility of scientists and other researchers, whose general role is to assess, within a public health orientation and on the basis of the best available evidence, the medical properties of the plant and its liability for abuse, will be very important. The Slovenian medical cannabis activists urged national government to ensure that their domestic laws recognise the indispensable nature of cannabis for the relief of pain and suffering, and guarantee adequate availability of the cannabis plant for legitimate medical uses. In Slovenia THC based medicines were “legalized” to be available by prescription. However this often provides only limited relief to a select group of patients, particularly when compared to natural cannabis and its cannabinoids. Patients often experience minimal relief from THC only medicines and many experience unwanted side effects. The legalized pharmaceutical THC should remain a legal option for patients; however the development of additional cannabis-plant-based pharmaceuticals should be encouraged. The state scheduling and drug laws should be amended to allow for those patients who are unresponsive

to THC only preparations or simply desire an alternatives to these pharmaceuticals, the ability to use natural cannabis and its cannabinoids as a legal medical therapy without fear of arrest and/or criminal prosecution.

There seems no evidence that criminalization reduces cannabis and other drug use. Much of the anecdotal data shows that strict laws on the criminalisation of cannabis use and users are fuelling serious harms associated with the criminal market. Also, the prohibition of cannabis plant use in medical treatment limits rights of access to evidence-based health care and should be reviewed. The roots of resistance to evidence based decriminalization, legalization and harm reduction are complex and show why efforts to bring about structural changes in scheduling and reforms of international and national laws should be at the forefront of global efforts to improve health promotion, prevention, ethics and social responsibility in drug policies.

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