Marijuana policy update

One year later, after SALIS 2015

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The 2016 SALIS/AMHL conference featured three presentations offering different but complementary perspectives on issues around drug policy reform relating to the non-medical use of marijuana. This paper provides a summary of the key messages of these presentations under one umbrella with the purpose of tracking the changing landscape in marijuana policy since the 2015 SALIS Conference one year earlier. Dr. Julie Netherland from the Drug Policy Alliance presented a brief history and update of the legal status of marijuana and insights into the harm that criminalization has inflicted on both individuals and the state. She also presented recommendations for reform as well as issues to flag in the process. Being in Colorado, one of the first U.S. states to legalize adult recreational non-medical marijuana use, conference attendees were fortunate to learn from Elyse Contreras and Ali Maffey from the Colorado Department of Public Health and Environment about the control of production, distribution and use in Colorado as well as the strategies used to ensure safe use and the dissemination of research based health messages to the public. Finally, Isabelle Michot, OFDT, presented on the complex situation in the European Union, where the public debate is being influenced by the reform of drug laws elsewhere, conventions are being challenged, drug use and attitudes are diverse, and changes around use and possession of marijuana have been made in some countries.

in reviewing and editing their sections.

Dr. Julie Netherland, Drug Policy Alliance, *Marijuana Policy Reform: Where have we been and where are we headed?*

Elyse Contreras, Retail Marijuana Health Monitoring Coordinator, and Ali Maffey, Retail Marijuana Education Program Manager, Colorado Department of Public Health and Environment, *Legalized marijuana: What can we say? How should we say it? And how do we protect public health?*

Isabelle Michot, Co-author of this paper, Observatoire Français des Drogues et des Toxocomanies (OFDT), *New cannabis regulations implemented in Americas; Perceptions and repercussions in Europe (France, United Kingdom, Italy, Spain, Switzerland)*

Introduction

At the SALIS 2015 conference in San Diego, experts in law, drug and alcohol policy and campus prevention were invited to provide insights on policy issues, options and challenges faced by jurisdictions planning to move towards decriminalization or legalization options for non-medical, recreational marijuana use (Lacroix, 2016). This includes Canada and many US states, and dovetails with the mainstreaming of cannabis use for medicinal purposes.

Being in Colorado for SALIS / AMHL 2016, provided an excellent opportunity to continue the discussion. The passage of a year undoubtedly brought new data, research and issues. As Colorado is one of the few US states where, to date, marijuana use is legal for adult recreational use, it was beneficial to learn of its progress and experiences in rolling out legalization, balancing public health and safety with controlled production and accessibility for the public. Many view Colorado and Washington State as 'petri dishes' for study. Moving beyond the state level, input from the Drug Policy Alliance was beneficial for the broader US perspective with a harm reduction lens. Adding to this, the European perspective provides a well-balanced, macro level perspective.

This paper incorporates information provided by the speakers whose themes naturally fit together in a complementary way.

Marijuana policy reform

History

It is always helpful to have a historical perspective to current issues. Dr. Julie Netherland provided a chronology for marijuana. To elaborate, cannabis/marijuana has been used medicinally for centuries. More recently, in the late 19th and early 20th century in the English speaking world, it was classified as a sedative, hypnotic and anticonvulsant agent as indicated in the *British Pharmacopoeia* and the *US Pharmacopeia* until 1932 and 1941 respectively.

In 1973 it was listed under Section 1 of the US *Controlled Substances Act*, rendering it one of the substances subject to the US 'War on Drugs'. This included the prohibition of use for medicinal purposes. This was part of a global movement towards control.

Like the US, United Nations drug conventions classified marijuana among the most dangerous substances, which has resulted in serious societal consequences, given that this is a popular drug used by many occasionally and without harmful consequences.

Moving on in the chronology, in 1996 medical marijuana law reform began in the US and by 2007, state licensing and distribution for medical use. In 2012 both the states of Colorado and Washington legalized the non-

medical use of marijuana. In 2014 Uruguay also legalized non-medical, recreational use.

As of May 2016, 24 states have medical marijuana laws, 16 states have decriminalized marijuana and 5 have legalized non-medical use. The trend towards state sanctioned medical use and the decriminalization / legalization of recreational use in the US is apparent. However, federally in the US, marijuana remains prohibited.
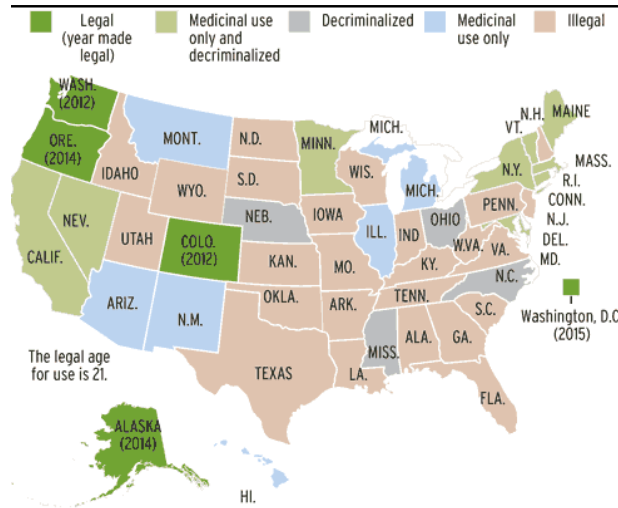

Figure 1. Provided by Drug Policy Alliance

Consequences of Prohibition Policy

Dr. Netherland addressed some of the consequences of the War on Drugs and the State versus Federal challenge in legislation. One such challenge has been the restriction on banking for marijuana-related business, including those providing medical marijuana. This has resulted in a cash economy which is a serious public safety issue and has affected the perceived legitimacy of these businesses. Since Dr. Netherland's presentation, the Senate Appropriations Committee has allowed banks to do business with marijuana-related businesses. However, this is an example of the type of roadblock resulting from inconsistent law and policy.

Then there is the issue of the criminal justice system. In 2010, over 50% of drug-related arrests in the US were due to marijuana possession or marijuana sales / manufacturing. Arrests over time climbed

steadily from 1970, up to over 800,000 and holding steady from 2006 to 2010, in spite of the trend towards law reform.

Not only do arrests and incarceration cost the state an enormous amount of taxpayers' money, but there are personal consequences that are experienced disproportionately by Black and Latino Americans. These include: being denied or losing a professional license; for students, being denied financial aid; being denied public housing and other types of social assistance; being barred from adopting a child; for immigrants, being deported.

These stigmatizing consequences also carry an economic cost. Dr. Netherland reported an estimated economic loss of not hiring those with a criminal record to be 57 – 65 billion dollars. Looking at the other side of the coin, legalizing marijuana can raise money for the public coffers. In Colorado, a year after legalization, marijuana sales tax generated $3.5 million.

Reform

Public support in the US for legalizing marijuana continues to grow, in particular among the younger cohort – a Gallup report found, in 2015, 71% of those born between 1981 and 1997 supported marijuana legalization and support continues to rise. What are key issues to address in the changing landscape of marijuana availability and control?

Dr. Netherland flagged the following: the issue of persistent racial disparities; repairing past harms affecting the lives of Americans, in particular in communities of colour; determining who has access to the industry and profits; the effect on the ongoing 'War on Drugs'; balancing regulation and free market forces; continuing to research a range of issues relating to marijuana use and marijuana policy reform.

The Drug Policy Alliance advocates that marijuana be removed from the criminal justice system and regulated like alcohol and tobacco. Monitoring this organization's work is recommended for keeping up to date with news and its research and recommendations

as marijuana legalization continues to break new ground.

Checking in on Colorado

Legalized marijuana: What can we say? How should we say it? And how do we protect public health?

It is beneficial to learn how Colorado, one of the first US states to legalize recreational marijuana use, through a commercial model with government controls, works to inform and educate the public of the potential health and safety issues, responsible adult recreational use, and the prevention of youth access and use. This is the responsibility of multiple programs within the Colorado Department of Public Health and Environment (CDPHE), funded by recreational marijuana sales tax revenue. It should be noted that state regulations and legislation have incorporated lessons learned from alcohol and tobacco. CDPHE has a mandate that ranges from research to public education and it is recommended that the reader visit the CDPHE website for a complete overview of its work. The gateway to this information is: https://www.colorado.gov/cdphe/retail-marijuana . Here are selected highlights of the presentations made by Elyse Contreras and Ali Maffey from CDPHE.

Work of the CDPHE: Research and Knowledge Transfer

Keeping up to date with the research literature, conducting surveillance research specific to Colorado, and subsequent knowledge translation are part of the work of the CDPHE. The Retail Marijuana Public Health Advisory Committee of CDPHE is responsible for rigorous literature reviews on several topics, including marijuana use in pregnancy and lactation and use among adolescents and young adults. Reviews are conducted of the peer-reviewed literature and the evidence is rated using a system similar to the GRADE (Grading of Recommendations Assessment, Development and Evaluation) system. Findings are grouped by: Population; Exposure (level of use); Outcome;

Demographics. Exposure is defined as follows: Occasional Use (less than weekly); Regular Use (weekly, 1-4 days per week); Heavy Use (daily or near daily, 5-7 days per week); Recent Use (within the past hour). This builds a body of evidence, routinely updated and classified as follows: Substantial; Moderate; Limited; Insufficient; Mixed. The evidence is translated into Public Health Statements, educational resources to support the work of community agencies and health providers, and public messaging, disseminated through http://www.colorado.gov/marijuana and other campaigns, listed below.

An example of translating evidence to public messaging:

"Substantial evidence was found that adults who use marijuana heavily are more likely than non-users to have memory impairments for at least seven days after last use." This translates into the following message for the public:

"Heavy use of marijuana can damage your memory. This damage can last a week or more after the last time you used."

Population Health Monitoring

Population health monitoring research is also conducted to study both trends in marijuana use and trends in health indicators. The initial report, *Monitoring Health Concerns Related to Marijuana in Colorado: 2014*, currently being updated, is available on the CDPHE website. It pulls together data from different surveys and information sources and includes findings from research reviews. Trends from Colorado specific sources such as hospital discharge data and data from the Rocky Mountain Poison and Drug Center are analyzed, as well as data from national sources.

Public Education: Good to Know, Marihuana en Colorado, and other Campaigns

The *Good to Know* marijuana public education campaign, was launched in 2015: http://www.GoodToKnowColorado.com. This campaign emphasizes clear, factual messages to encourage responsibility and

safe, legal use. It covers the following: laws; important things to be aware of before use, including safe use and information for tourists; health basics on topics such as respiratory issues and mental harm; messages for specific populations such as pregnant or breastfeeding women, and youth. As adolescents / youth are vulnerable to the harms of marijuana use, the legal age for purchasing, possessing or using retail marijuana is 21. One of the *Good to Know* messages relating to adolescents / youth is: "Underage use is not OK. Their brains are still growing so keep it away." Additional resources for parents and other adults entrusted to talk with youth about health are included in campaign messaging.

As edibles are a challenge, there are messages on how to store these products safely to protect children and pets. This campaign was well planned out, established with several objectives, designed with input from a stakeholder survey, and focus group tested. To evaluate its effectiveness, pre-launch and 3-month post 'height of campaign' surveys were conducted to measure change in knowledge and attitudes. Knowledge of key laws increased statistically significantly. To serve the Spanish speaking population, found to have a lower knowledge of laws but a higher level of agreement that there are health risks, a Spanish campaign has also been established.

The Colorado Department of Transportation provides public information in English and Spanish to answer questions drivers may have, including detection information and legal limits. There is also data on drugged drivers involved in fatal crashes. See:

https://www.codot.gov/safety/alcohol-and-impaired-driving/druggeddriving.

You are encouraged to monitor the State of Colorado websites highlighted above to track ongoing progress in monitoring and evaluating retail marijuana in Colorado.

Marijuana / Cannabis: Overview of the Situation in Europe

Public debate over the legalization of recreational marijuana use in European countries has been influenced by policy change in the Americas. Five U.S. states have legalized the use, production and sale of marijuana for personal use, and the results of the U.S. November, 2016 election will undoubtedly increase this number. Uruguay has legalized marijuana and policy change is under consideration in Jamaica and Canada. The situation in the Americas continues to be monitored with interest by government and the popular media.

Across the 28 countries of the European Union (EU 28) there is diversity in the laws and regulations, drug use data, and public opinion about cannabis policies. As European publications tend to use the term cannabis, as it is mostly used as a resin, the term cannabis will be used in this section of the paper. Based on the presentation of Isabelle Michot, co-author of this paper, the following will be addressed: cannabis legislation in Europe; public use, opinions and perceptions; reactions to change through examples of key projects and debates worth tracking.

Legislation Affecting Cannabis Use and Possession

Obradovic (2016) reports on the legal status of cannabis in Europe. Two international conventions place restrictions on European nations' legislation. These are: the 1961 *Single Convention on Narcotic Drugs* and the 1988 *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.* Under these conventions, the production, trafficking, sale and possession of narcotics is a criminal offense. However, 'use' is not included, leaving individual countries with autonomy in regulating use. Also, some countries, such as France, include cannabis as a 'narcotic' whereas others, such as Britain, differentiate between cannabis and other narcotics. Since the 2000's, more than half of the European Union (EU) countries have

modified penalties for possession and use. The result is a complex 'legal' map.
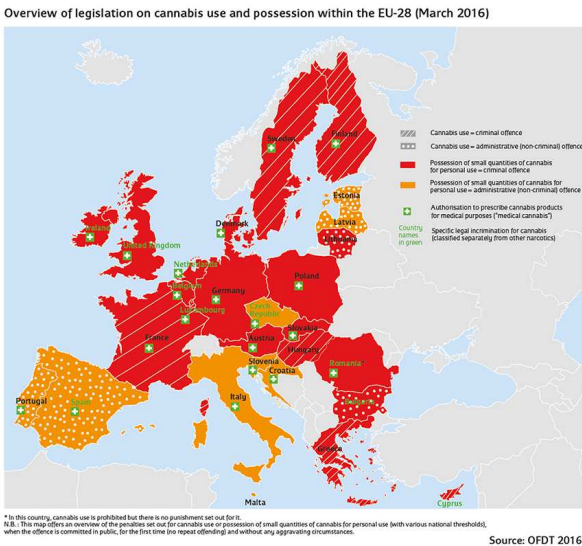

Figure 2. Overview of legislation on cannabis use and possession within the EU-28

Here are some breakdowns. Concerning use, within the EU28:

- Use is a criminal offense in 6 countries;
- Use is an administrative offense in 7 countries;
- Use is not prohibited by law, but, possession of small amounts for personal use is a criminal or administrative offense in 15 countries.

Concerning possession, it is a criminal offense in most countries, with some exceptions for "small amounts", which differ from country to country.

- Possession of "small amounts" is an administrative offense in 9 countries;
- Possession of "small amounts" is a criminal offense in 19 countries, but of these, 7 countries have legal mechanisms to decriminalize possession.

In summary, within the EU-28, it is not a criminal offense to use or possess "small amounts" of cannabis in 8 countries: Portugal, Spain, Slovenia, Estonia, Czech Republic, Italy, Latvia and Croatia. Luxembourg and Belgium can be added, as criminal penalties are not applied.

Prevalence and Public Opinion

Data from the *2015 EMCDDA European Drug Report* demonstrates the heterogeneity of both the use and trends in cannabis use among European countries. Among young adults, 15 - 34, prevalence is increasing in Finland, Denmark and France yet dropping in Spain and the UK. There is no simple relationship between legal sanctions and prevalence trends. Using France as an example, the policy is highly repressive but the use of cannabis among ages 18 - 64 is one of the highest in Europe and increasing. The *2011 EMCDDA Annual Report on the State of the Drugs Problem in Europe* tracked legal changes, 2001 - 2006, and no simple association between legal changes and cannabis use prevalence was evident. These and other informative reports can be found at: http://www.emcdda.europa.eu.

Public opinion is also divided across Europe. The European Community (EC) *Flash Eurobarometer 401* opinion survey found that just over half of the young people (15 - 24) surveyed supported continuing to ban cannabis with 45% supporting regulation. Overall, there was noticeable heterogeneity among EU countries. Looking at France, the OFDT EROPP Survey of adults (15 - 75) conducted regularly since 1999 to monitor opinions and perceptions about drugs, found the majority of respondents, 78% either did not agree or 'fairly disagreed' that cannabis should be freely sold like tobacco or alcohol, (Tovar, ML et. al, 2013).

Reactions to Change

As part of her presentation, Isabelle Michot highlighted several examples from the media to illustrate the attitudes and positions within countries about this timely issue from media sources, such as *Le Figaro* (France), *The Guardian* (U.K.), *La Repubblica* (Italy), *El Pais* (Spain) and *24 heures* (Switzerland). Although individual articles are not cited in this paper, it is important to note the focus of the debate has shifted from depenalization, meaning the reduction of penal sanctions, to legalization oriented.

There are other examples of the public debate initiated by government, and well documented on the public web.

The UK Cannabis Debate

In the United Kingdom, the Society for the Study of Addiction (SSA) posted on its website, http://www.addiction-ssa.org, *The UK Cannabis Debate: a Brief Look at Policy*. It captures the outcome of the 2015 debate in Parliament over cannabis legalization in response to a public petition to "make the production, sale and use of cannabis legal" which received over 200,000 signatures, well beyond the 100,000 signatures required for a parliamentary debate. The government responded negatively to legalizing marijuana, arguing that cannabis use is a significant public health issues, causing harm to individuals and communities. It would send a wrong message to the majority of people who do not use drugs, in particular the young and vulnerable. Legalization would not eliminate crime caused by the illicit drug trade. Current policy must be working given that use is declining. In summary, the government concluded that it has no plans to legalize marijuana.

France

Debates have centered around economic and security issues. The French 'think tank' Terra Nova assessed the economic impact of the social costs of three scenarios for cannabis regulation and concluded: the legalization of the production, sale and use of cannabis in the context of a State Monopoly seems the best policy to control consumption and enable prevention efforts. The report of this study (Ben Lakhdar et al, 2014) is in French and available on the Terra Nova website. Another study now underway is the CANNALEX Project, launched in 2015. It is a joint project of the French National Institute for Advanced Studies in Security and Justice (INHESJ) and OFDT designed to analyze three main policy models, by studying jurisdictions that have implemented change to determine the impacts of reform. The models are: prohibition of cannabis use and possession; the decriminalization of possession of small quantities of product; and the legalization of production, use and distribution. Included in the study are U.S. states Colorado and Washington State, Uruguay, Sweden, Spain and the Netherlands.

Europe Wide and Beyond

For an international perspective, consult the April 2016 UNGASS (United Nations General Assembly Special Session) at which members debated international drug prohibition. Reading through the complex documents is challenging, but it is evident that many countries want more autonomy. TNI (2016) has prepared a policy briefing based on this debate.

Conclusion

Together, the presentations at SALIS/AMHL 2016 offered a broad perspective on the changing landscape of marijuana policy as it relates to non-medical use, and indicated a shifting landscape where reform is being implemented or considered, and evaluated. Countries and jurisdictions are exerting a need for some autonomy in local policy. More liberalized less punitive alternatives are becoming the popular option.

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