

## EDITORIAL

### Should cannabis be taxed and regulated?

After three-quarters of a century of prohibition, Australia's cannabis industry is the same financial size as her gold industry, twice the size of her wine industry and three-quarters the size of the nation's beer industry [1, 24 June 2000 no. 32]. More Australians consume cannabis than any other illicit drug. Of the 15 million Australians aged 14 years and over, 5.7 million report having ever used cannabis and 2.6 million report using cannabis in the 12 months prior to interview [2]. Criminal sanctions for people cultivating, selling or consuming cannabis enjoyed strong community support for many years. Civil penalties are now more generally favoured. One of the major problems with either option is the preservation of a criminal supply source for an industry with an annual turnover estimated to be \$5 billion [3], representing 1% of Australia's Gross Domestic Product.

The historical basis of Australia's cannabis policy is weak. Australia participated in a League of Nations International meeting in Geneva in 1925 where a decision was made to prohibit cannabis, along with several other drugs [4]. Although cannabis was virtually unheard of in Australia at that time, Commonwealth authorities requested the states to conform to the new international legal framework. The NSW Under-Secretary of the Colonial Secretary's Department responded that 'the omission of that drug from the operation of the Act would possibly be of small moment, but having been considered by the conference as requiring to be included, it might perhaps be as well, if practicable, to bring it within the purview of the dangerous drugs laws' [4]. Victoria was the first state to prohibit the unauthorized use of cannabis and did so in 1927; by 1959 all other states had followed [5]. Cannabis prohibition remains in force in all states and territories in Australia today, although four jurisdictions now provide a civil penalty option and four jurisdictions now provide a cautioning option for some minor offences and the severity of penalties has been reduced during the last decade or so [6].

The financial cost of cannabis prohibition is unknown, but presumed to be considerable. It is conceivable that cannabis prohibition may have actually increased consumption by guaranteeing extraordinary profits to suppliers. Despite the considerable resources

allocated to the enforcement of cannabis prohibition, the majority of respondents to a recent survey on drug use in Australia rated the availability of cannabis as 'very easy' in all eight states and territories [7]. There is no convincing evidence that the relentless demand for cannabis is influenced strongly by the legal environment for the drug [8–10]. Under current arrangements, and by choice not chance, this demand is provided entirely from illegal sources. Allowing demand to instead be met from taxed and regulated sources is likely to reduce the harms from cannabis as well as the financial and other costs of cannabis control policies.

Numerous authorities, including President Jimmy Carter [11], have concluded that the costs of cannabis control currently exceed the costs of the drug itself [12]. Whether the cost of cannabis consumption and cannabis control policies is likely to be reduced if supply is provided from taxed and regulated rather than criminal sources is rarely considered. There is speculative evidence that cannabis legalisation may actually increase consumption [13,14] although possibly accompanied by a sizable decline in alcohol consumption [14]. However, it is hard to believe that cannabis consumption in Australia could increase beyond the current very high levels if supply were taxed and regulated. Even if cannabis consumption were to increase following taxation and regulation, the more critical issue is the net effect of policy on health, social and economic costs of the drug and control policies.

In 2001–2002, 47 529 cannabis arrests were detected in Australia, representing 72% of all reported drug offences [15]. More than three-quarters (79.8%) of these cannabis arrests were for possession and use [15]. Even law enforcement authorities have noted that '[cannabis offences]... absorbed a significant proportion of resources dedicated to drug law enforcement. In addition, compared with most other illicit drug use, cannabis use appears to be associated with a comparatively low rate of crime and harm to other individuals and the community. The decriminalisation of personal cannabis use and production may greatly reduce both police and legal resource expenditure' [16]. At present, scarce law enforcement resources are currently diverted from the policing of violent crime and ironically, rampant corruption of police was found in two recent

state Royal Commissions and linked to unsuccessful attempts to enforce drug laws [17,18].

Reclassification of possession of up to 1 ounce (28 g) of cannabis to a misdemeanour rather than a felony in California in 1976 achieved law enforcement savings of \$US 100 million annually [19]. The annual costs of processing and prosecuting cannabis and cannabis paraphernalia offences in Queensland were estimated to be \$2.6 million in 1991/92 while an expiation notice system was estimated to save \$ 0.7 million annually [20]. In South Australia, the total cost of a conventional cannabis prohibition policy was estimated to be \$ 2.0 million in 1995/96 with fines and levies generating \$ 1.0 million, while an infringement notice system was estimated to cost \$ 1.24 million but generate income revenue of \$1.7 million [21].

Innumerable authors have concluded that the adverse health consequences of cannabis are modest, especially in comparison with alcohol and tobacco [22]. Yet many seem almost oblivious to the serious adverse consequences of cannabis prohibition, despite documentation of often-severe consequences for individual offenders [23]. Prohibition encourages a single market for cannabis, together with much more harmful drugs such as heroin, amphetamine and cocaine [12]. Under prohibition, access to cannabis is no more difficult for juveniles than it is for adults. There is no opportunity at the point of sale to provide health warnings or advice about steps to reduce harm (such as not driving for several hours after smoking cannabis), discourage use among juveniles, people with a past history of serious mental illness or pregnant women or steer users seeking help toward assistance. Prohibition results in high social costs to convicted offenders such as unemployment, loss of relationships and disruption of accommodation [23]. There is no regulation of the market for consumers, leading to concerns that cannabis with exceptionally high concentrations of psychoactive ingredients or adulterants is available for sale. Cannabis is unavailable for medicinal use, even where there is reasonable evidence of probable benefit in patients with terminal conditions and severe symptoms unresponsive to all conventional agents [24].

In order to separate the cannabis market from markets for other illicit drugs, Australia could follow the example of authorities in the Netherlands, who close swiftly, without appeal, authorized outlets discovered to be selling any illicit drug other than cannabis [25]. A health-orientated policy would aim to influence the millions of Australians determined to use cannabis to do so in less damaging ways than inhalation of smoke, such as swallowing or inhalation of cannabis vapour [26,27]. Regulation of cannabis could enable the use of proof of age restrictions as currently apply for alcohol in some jurisdictions. Taxation revenue is currently forgone on a \$5 billion/year industry. Hypothecation of a small

proportion of the considerable revenue generated from cannabis taxation could generously fund alcohol and drug prevention and treatment services which struggle to receive adequate funding under existing arrangements.

It is unlikely that the community would accept moving from total prohibition to taxation and regulation in a single step. Pressure is building in many countries, including Australia, for reform of the current expensive, ineffective and often-counterproductive cannabis arrangements. A system where purchase and possession of cannabis is no longer illegal but cultivation and sale remain illegal ('decriminalization') is likely to be introduced gradually in more jurisdictions but has significant shortcomings. Demand is still supplied by criminals. In addition, a half-legal (consumption) and half-illegal (supply) market is unsustainable in the long term. Boundary problems between consumption and supply components are inevitable, with the likelihood that the market will require sooner or later either that both components become legal or that both revert to an illegal status. Reducing the severity of law enforcement carries the risk that it will be used even more widely. 'Widening of the net' occurred following the introduction of the cannabis expiation notice system in South Australia. It is also important to learn from the mistakes made in tobacco regulation. From the outset, cannabis advertising and sponsorship should be banned and all donations to political parties and taxation concessions prohibited.

Some argue that Australia's international treaty obligations present an insuperable obstacle to the taxation and regulation of cannabis. However, the Single Convention (1961), which created the framework for contemporary prohibition, states that: 'A party shall, if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health and welfare, prohibit... cannabis' [28]. The evidence that cannabis prohibition is the most appropriate means of protecting the public health and welfare of Australia was not produced in 1925 and has not been presented since. The international treaties most relevant to cannabis allow ample latitude for signatory nations [28,29]. The community has gradually come to accept that some form of regulation is the least worst arrangement for unreduceable appetites the majority disdain, but a substantial minority desire, such as gambling and prostitution. It is time to seriously consider the hitherto unthinkable: the least worst arrangement for cannabis is taxation and regulation.

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