

Current Criminal Law

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Uruguay government may take steps to produce marijuana

Sally Ramage



Picture 1: Uruguay

Introduction

The Uruguay government proposes to grow cannabis and dispense it to registered users and they say that this is a bid to ‘fight drug trafficking’. ¹This news raises eyebrows especially since Uruguay is not known to the world for any large-scale cannabis drug-trafficking. This anti-prohibition of drugs is gaining ground across the world in an increasing number of countries, and there have been calls for the legalisation of the possession and use of some or all drugs for non-medical purposes. However, since 1991, the International Narcotics Control Board² rejected such proposals and produced a report which provided an analysis of the meaning and consequences of legalisation in its 1992 report. The *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*³ give the Board the authority to

¹ Simon Tegel, ‘Nationalisation: Uruguay’s solution to its drug problem’, *The Independent*, 22 June 2012.

² The International Narcotics Control Board (INCB) is the independent and quasi-judicial control organ for the implementation of the United Nations drug conventions. It plays an important role in monitoring enforcement of restrictions on narcotics and psychotropics and in deciding which precursors should be regulated.

³ In article 22.

investigate the failure of any country or region to carry out the Convention's provisions.

Prolific and worldwide use of cannabis

Cannabis is the most widely used illicit drug worldwide. It has been claimed that it has analgesic properties and criticised for both its psychoactive and addictive nature. It is illegal in most countries but decriminalised in some. For example, in New Zealand, cannabis is the third most commonly used drug after tobacco and alcohol, and the most commonly used illegal drug. Approximately three-quarters of New Zealanders have tried cannabis by age 25 and 13.7% of New Zealanders have used cannabis in recent years.

Forms of cannabis use

Cannabis is a drug produced from the *Cannabis sativa* (commonly known as hemp) or *Cannabis indica* plant, which is related to nettles and hops. It's believed to have originated in the mountainous regions of India, and grows wild in many parts of the world. The plant contains more than 400 chemicals, including cannabidiolic acid, an antibiotic with similar properties to penicillin. The different chemical derivatives of the plant can be consumed. The recreational drug cannabis comes in many forms – herbal (dried plant material), resin, powder and oil - and is known by many colloquial terms, including ‘weed’, ‘pot’, ‘grass’ and ‘hash’. It is most often smoked although it can also be taken orally. In the UK, cannabis is a Class B controlled drug defined as such in the Misuse of Drugs Act 1971 and Misuse of Drugs Act ((Temporary Class Drug) Order 2012.⁴ Social concerns are real. In the UK, some people burgled a house, used a taser on the occupant and stole money for the purpose of setting up a cannabis cultivation factory in *R v JA, George Montague and Peter Poru* [2012] EWCA Crim 1156 CA (Crim Div). In the case of *Re S (Children)* [2012] CA (Civ Div), a mother was not permitted to be a carer of her children in view of the fact that she smoked cannabis. One could lose one's home if a member of one's family was involved in drugs. Recently, an order for possession was made against a local authority tenant whose 19-year-old son had been living with her and was causing distress and nuisance to neighbours by his

⁴ This 2012 Order came into force on 5 April 2012 and makes the drug methoxetamine, and its simple derivatives, temporary class drugs under Section 2A(1) of the Misuse of Drugs Act 1971 for up to 12 months.

ongoing antisocial behaviour, which included involvement with drugs and firearms (see *Barking & Dagenham London Borough Council v Bakare* [2012] EWCA Civ 750).

Medical concerns

The widespread use of cannabis has raised many concerns over its long-term effects. Often these have been about the effects of chronic cannabis use on mental health. However, the frequent practice of smoking cannabis also raises concerns over its potential for adverse effects on the respiratory system. Unfortunately, the illegal status of cannabis makes it difficult to obtain reliable data on cannabis use and its effects. Self-reports of cannabis consumption are likely to be inaccurate owing to social desirability, bias, and the fear of legal consequences. Furthermore, as most cannabis users also smoke tobacco, the effects of cannabis on the respiratory system may be obscured by the effects of tobacco. Even if cannabis use is honestly reported by users, quantifying cannabis consumption is inherently difficult because, as an illegal substance, there is no standardisation of supply and significant variations in strengths and amounts of cannabis occur.

The International Narcotics Control Board

There is at present a certain amount of flexibility for the de-penalisation of drug use in the drugs conventions, and the International Narcotics Control Board has emphasised the tremendous risks that would occur with a legalisation of drugs for non-medical use, namely, public health risks, an attack on social well-being and the loopholes this would create in the international drug control system, besides which, is the fact that international trafficking in narcotic drugs and psychotropic substances is extremely lucrative for the key players and organisers in the non-medical use of drugs.⁵

Drug abuse, crime and violence locally

One advantage in legalising the use of cannabis is the potential to reduce the inter-

⁵ See <http://www.incb.org/>.

relationship between drug abuse, crime and violence at community level since different drug trafficking groups, in theory, would be stopped in competing for this drugs market in Uruguay. In its meeting in May 2012, one topic on the agenda of the International Narcotics Control Board was the analysis of the drug control situation in specific countries.

Uruguay's policy may not affect the United Kingdom

With regard to illegal drugs, the United Kingdom (UK) mostly consumes Latin-American cocaine, and heroin from Southwest Asia. Uruguay is not known for cocaine production either, and so the news that Uruguay's José Mujica⁶ administration is reported to be planning plans to take measures to legalise marijuana sales as a crime-fighting measure, will not impact very much on the UK, although it will become a serious competitor to the likes of Uzbekistan where illicit cultivation of cannabis occurs; there are no present laws against marijuana use itself in Uruguay. This legalising of marijuana would mean that only the government could sell marijuana, in the form of cigarettes, and only to adult 'registered' users. Uruguayan marijuana smokers would have to exercise moderation under the new plan.⁷ There would be a limited number of permitted marijuana cigarettes and anyone discovered exceeding this limit would have to undergo rehabilitation. The state would take responsibility for quality control under the plan and sales would include a tax to fund rehabilitation programs. Under the plans, the government would initially grow cannabis and sell it to registered users. But once the scheme is up and running, it hopes to cash in and allow private companies to take over the production of the drug. Possession of small amounts and consumption of marijuana is currently not illegal in Uruguay but growing and selling it is. The new bill would seek to put the drug dealers out of business by making it easier, safer and possibly cheaper for users to buy marijuana from official dispensaries.

⁶ It is noted that in the tone of discoverability, transparency and good governance, the 81 year-old former president of Uruguay, Juan Maria Bordaberry, was recently sentenced to 30 years in prison for his involvement in a coup in 1973. He was convicted of the murder of two opposition supporters, whose bodies were found in recent years, and of the disappearance of nine others. See, Editor, 'Uruguay's ex-ruler Bordaberry jailed for 30 years', *BBC News*, 11 February 2010.

⁷ Moderation is a principle of life. In ancient Greece, the temple of Apollo at Delphi bore the inscription 'Meden agan' meaning 'Nothing in excess'. Commonly, doing something 'in moderation' means 'not doing it excessively'.

Taking the United States' lead

In the United States, drug trafficking or drug distribution laws penalise the selling, transportation, and illegal import into the United States of unlawful controlled substances such as marijuana, methamphetamine, cocaine, LSD, 'club drugs', and heroin. Federal and state drug trafficking/distribution laws and punishments vary according to drug type, amount, geographic area of distribution, and whether minors were sold to or targeted. Drug trafficking/distribution laws can implicate a single individual or a broad ring of people involved in organised illegal drug activity.⁸ The U.S. Federal Government and thirty seven states make 'possession of marijuana' a criminal offence⁹ punishable by imprisonment. Federal law categorizes marijuana as among the most dangerous of illicit drugs,¹⁰ and the Office of National Drug Control has generally treated marijuana control at the top of its list of priorities. In recent years, federal and state laws have resulted in the arrest of more than 700,000 Americans annually for marijuana possession, a crime that almost 100 million Americans have committed.¹¹ The U.S. Justice Department does not prosecute the use of marijuana for medical purposes, which is legally prescribed in thirteen states, as follows: Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Rhode Island, Vermont and Washington. The states of Arizona and Maryland allow for a defence of the use of marijuana if this use can be proved to be for medical purposes. Uruguay, however, is going a step further according to its proposals and the proposals make no mention of drug using and driving and whether it would be an offence to drive and smoke drugs. In comparison, as regards the driving of a vehicle whilst under the influence of marijuana, there is a federal directive relating to the U.S. Department of Transportation's ban on medical marijuana for drivers. The Department of Transport in the United States carries out regulated drug testing as per its anti-drug-driving regulations which make it a road traffic

⁸ 21 U.S.C. § 812 (2007). Under federal law, marijuana possession is punishable by one year in prison and a minimum fine of \$1,000. 21 U.S.C. § 844 (2006).

⁹ In law, the word 'offence' has no technical meaning but is commonly used to signify any public wrong, including, not only crimes or indictable offences, but also wrongs punishable on summary conviction. The word 'offence' is used as a comprehensive term to cover anything a court may deal with.

¹⁰ Under the federal drug laws, marijuana is designated a Schedule I controlled substance, reserved for the drugs with the most serious potential for abuse, no medical benefit, and no safe method of use. 21 U.S.C. § 812 (2007). This status places marijuana on a par with heroin, and in a graver category than cocaine and oxycontin, which are included in Schedule II.

¹¹ In 2006, there were 742,900 arrests for possession of marijuana, constituting 39.1% of the 1.9 million drug arrests. 80% of all drug arrests are for possession, not sale or manufacture. *FBI Uniform Crime Reports* (2006), at Table 29. In 2005 there were almost 787,000 marijuana arrests, 700,000 of them for marijuana possession. (*FBI Uniform Crime Reports* (2005)).

offence for the following classes of persons to drive whilst under the influence of the drug marijuana: school bus drivers, truck drivers, train engineers, subway operators, aircraft maintenance personnel, transit fire-armed security personnel, ship captains and emergency response personnel. In comparison, in the United Kingdom, police officers can only test a person for alcohol or drugs if he or she has reason to suspect the driver might be under the influence of alcohol; if a moving traffic offence has been committed or if the vehicle has been involved in an accident. Random testing for drugs or alcohol is not permitted. The charge used or a drug driving offence is as per the Road Traffic Act 1988- section 4- driving or attempting to drive or being in charge of a mechanically propelled vehicle while unfit to drive through drink or drugs. For a section 4 offence, the prosecution must prove that the defendant's ability to drive was actually impaired. A section 4 road traffic offence must refer to a person 'being in charge of a vehicle'. The person accused must be the most recent driver; or had been driving the vehicle; was in the near vicinity of the vehicle and must have the keys to the vehicle.¹² There is no need for police to administer a preliminary test for breath alcohol levels or for drug consumption before arresting a driver for a section 4 offence. Rather, the suspect's level of impairment and ability to drive properly is assessed by a police medical practitioner at a police station through an evidential test. Specimens of blood, breath, or urine may also be taken for other evidential tests, to prove the presence of drugs in the body (which would imply impairment). The evidence presented to a court in support of a section 4 offence may include [i] the style of driving before the defendant was stopped; [ii] his or her demeanour at time of stop (speech, unsteadiness); the report by a medical examiner whilst in custody (particularly if evidential specimens are not obtained to prove presence of drugs); and the results of evidential drug tests (using blood or urine samples). Note that in English law, although there is no power of arrest of a section 4 offence under the Road Traffic Act 1988 and to make an arrest, section 24 PACE 1984 needs to be used. If the suspect has moved into a building, the police can use section 17 (1) (c) (iii) of PACE 1984 to arrest him or her but only if there are reasonable grounds for believing that the suspect is on the premises.¹³

Uruguay is 'small fry' in cannabis trafficking at present

¹² See *CPS v Thompson* [2007] EWHC 1841 (Admin).

¹³ This is simply and clearly explained in Bryant, R. and Bryant, S. (2011) *Blackstone's handbook for policing students*, Oxford: Oxford University Press at Chapters 9 and 12 (ISBN 978-0-19-95922-8).

At present, what is known is that Uruguay is not like Mexico but rather is a ‘small-scale transit country for drugs’ mainly bound for Europe, often through sea-borne containers; there is law-enforcement corruption in Uruguay; and money laundering offences occur because of strict banking secrecy laws. Uruguay suffers from weak border control along the Brazilian frontier and the population is known to have an increasing consumption of cocaine base and synthetic drugs. Arguably, because marijuana prohibition diverts resources from more pressing drug- or crime-control agendas, encourages discriminatory enforcement, stymies ameliorative regulation, and consigns users to deal with criminal drug traffickers if notwithstanding lawyers, courts and prisons.¹⁴



Picture 2: Uruguay's position in South America

The Uruguay Congress has already had put to it the proposal that will allow people to grow marijuana for their personal use. This newly reported proposal would need to be considered carefully but would be much lauded across the world, especially since many criminologists have already proposed such a scheme. Such measures would defeat organised crime¹⁵ and could also save many lives, by diverting drug abusers from harder drugs.

Foreseeable issues

¹⁴ MacCaun and Reuter, ‘National Commission on marijuana and drug abuse’, in *Marijuana, A Signal of Misunderstanding* (1972). This study was commissioned by President Richard M. Nixon in March, 1972.

¹⁵ Justin Davenport, ‘24 years in jail for cocaine smuggler’, *London Evening News*, 8 June 2012. (A major drug trafficking ring smuggled millions of pounds of cocaine and cannabis into Britain hidden in flat-pack furniture and secret compartments in vans). In line with this news are Uruguay’s proposed new anti-money laundering rules, an indication that this is a forward-thinking and progressive country. See, Michael Kane, ‘Uruguay unveils new anti-money-laundering rules’, *Insight- Organised crime in the Americas*, 20 June 2012.

It is not cannabis but the growing use of crack cocaine that has given public officials in Uruguay cause for concern.¹⁶ Such a scheme as mass hemp cultivation would need to go before the Uruguay Congress for consultation. The foreseeable problems would be the immense cost of administering this scheme for cannabis; police corruption; and bribery of government officials as opportunistic criminals attempt to abuse the proposed system to continue their drug trafficking.

However, these are not seen to be issues that this country will face because Uruguay is one of the most economically developed countries in South America, with a high Gross Domestic Product (GDP) per capita¹⁷ and the 48th highest Human Development Index in the world in 2011, and the first by human development in Latin America, when inequality is factored in. Uruguay is noted for its low levels of corruption. Uruguay has been ranked by *Transparency International* as the second least corrupt country in Latin America, after Chile.

What evidence supports the potential success of this proposal?



Picture 3: Leaf from cannabis plant

Nevertheless, a cursory examination of Uruguay's political history may assist in the decision as to the country's political stability, essential for the success of these proposals. A violent Marxist urban guerrilla movement named the Tupamaros, launched in the late 1960s, and led Uruguay's president to cede control of the government to the military in 1973. By year-end,

¹⁶ Editor, 'Tough anti-crime rules for couriers loom', *Eastday Shanghai*, 8 June 2012. (A new Shanghai law will require all courier parcel offices to install 24-hour surveillance and parcel-screening systems and keep footage for at least 30 days to boost security and thwart crimes such as drug trafficking. City legislators yesterday started discussing the fledging law, which is planned to impose fines up to 50,000 Yuan (US\$7,854) for a single instance of a courier company failing to comply with the rules. The booming parcel-delivery industry across the country is a ripe method of distribution of illegal drugs, allegedly. The Shanghai experience is but one example of problems that police face globally in anti-drug trafficking.)

¹⁷ \$14,415.

the rebels had been crushed, but the military continued to expand its hold over the government. Civilian rule was not restored until 1985. In 2004, the left-of-centre Frente Amplio Coalition won national elections that effectively ended 170 years of political control previously held by the Colorado and Blanco parties, notwithstanding that Uruguay's political and labour conditions are among the most liberal on the continent.¹⁸

Other progressive laws of Uruguay determine its reasons



Picture 4: gay marriage in South America

The political stability of Uruguay has not been long-standing. However, although it was not until the year 1984 that Uruguay was returned to democracy with a presidential system,¹⁹ socially, Uruguay's population of 3.5 million people have displayed their progressive attitudes and the country can boast that it was the first South American country to legalise 'same-sex' and 'different-sex' civil unions at a national level. Uruguay allows gay people to adopt children. In 2009, Uruguay became the first country in the world where every child of school age is provided with a free laptop and internet. It is the first nation in the Americas to test hemp cultivation. The government's foresight in these tests resulted in the present proposed statutory control of the use of cannabis²⁰ for personal use, hashish being the resinous exudate of the cannabis or hemp plant and marijuana being the dried leaf of the cannabis or hemp plant.

¹⁸ See the *CIA Factbook* at <https://www.cia.gov/library/publications/the-world-factbook/geos/uy.html>.

¹⁹ The title *president* has been carried over from a time when such person actually presided over (sat in front of) the government body, as with the US President, before the executive function was split into a separate branch of government. After this split, the President was no longer needed to sit in front of the legislative body, although the executive title remained in legacy.

²⁰ Cannabis (*Cannabis sativa*) is the common hemp plant, which provides hallucinogens with some sedative properties, and includes marijuana (pot, Acapulco gold, grass, reefer), tetrahydrocannabinol (THC, Marinol), hashish (hash), and hashish oil (hash oil).

The logistics of large scale government cultivation of hemp

Since over 90 percent of the country is used for farming and livestock, with over one-third of the country's soil having cropping potential, it is amenable to producing large-scale government-grown hemp and such a pilot scheme in the global arena is bound to affect the illegal drug industry. Money launderers will be quick to buy up farmland and since tourism is well-established even in the rural areas, there may be a growth in forum-shopping for consumption of cannabis, as there is where paedophiles go abroad to indulge their criminal pleasures. There is not likely to be a rush of tourists to this country for this sole purpose, because the same consumption had be indulged on holiday in Amsterdam in Europe.

Competitors in the illegal drug markets

Albania will be affected if this hemp production becomes a reality because Albania is an active trans-shipment point for Southwest Asian opiates, hashish, and cannabis transiting the Balkan route and - to a lesser extent, which might increase cocaine from South America destined for Western Europe. Armenia might be affected by this competition since Armenia is known for its illicit cultivation of small amount of cannabis for domestic consumption and it is at present a minor transit point for illicit drugs - mostly opium and hashish - moving from Southwest Asia to Russia and to a lesser extent the rest of Europe. Azerbaijan will certainly be affected because unlike Uruguay, Azerbaijan's has in place a small government eradication program. The Bahamas, Barbados, and Belarus, are small trans-shipment points for cocaine and marijuana bound for US and Europe. Belize is at present, a small scale producer of cannabis. Bosnia is a small transit point for marijuana. Canada is an illicit producer of cannabis for the domestic drug market and export to US. Columbia is an illicit producer of coca, opium poppy, and cannabis. The Congo and Cote D'Avoire both are among the biggest producers of cannabis, presently mostly for domestic consumption. Egypt is a transit point for cannabis. El Salvador is a transit point for small amounts of cannabis. French Guiana and Martinique are both transit points for a small amount of marijuana. Ghana is an illegal producer of cannabis for the international drug trade. Greece is a gateway to Europe for traffickers smuggling cannabis. Grenada conducts illegal small-scale cannabis cultivation

and is a lesser trans-shipment point for marijuana and cocaine to US. Guyana and Indonesia are illicit producers of cannabis. Honduras is an illicit producer of cannabis. Ireland is a trans-shipment point for and consumer of *hashish* from North Africa to the UK. Jamaica has illicit cultivation and consumption of cannabis. Kazakhstan has significant illicit cultivation of cannabis for CIS markets. Kenya has widespread harvesting of small plots of marijuana. Kyrgyzstan limited illicit cultivation of cannabis. Thailand is a minor producer of marijuana. Syria is a transit point for hashish. Switzerland has domestic production of cannabis. Suriname is a transshipment point for arms-for-drugs dealings. Ukraine has limited cultivation of cannabis. The United Arab Emirates is a drugs transshipment point and execution can be the penalty for convicted drug traffickers in this country. Zimbabwe is a transit point for cannabis.

Physical effects of cannabis smoking not conducive to unilateral approval of its use

Although cannabis (or marijuana) is the world's most widely-used illicit drug, there has been surprisingly little research into its effects on respiratory health. Part of the problem is the inherent difficulty of studying the long-term effects of an illegal habit. It has often been assumed that smoking cannabis will have similar long-term effects to smoking tobacco. Several recent observational studies suggest that this is not the case and that cannabis has quite different effects on the lung function.

Smoking cannabis causes medical concerns

There are consistent findings that smoking cannabis is associated with: large airway inflammation, symptoms of bronchitis; increased airway resistance; and lung hyper-inflation.

Behavioural concerns of cannabis use

One must not forget that behaviour, including behaviour of cannabis users is a complex mix of culture, custom, nature, nurture and environment. Social neuroscientists, cognitive neuroscientists, behavioural psychologists, and psychotherapists may, as a group, hold that

behaviour, including psychopathic behaviour, falls under environmental (nurture) controls. On the other hand, molecular, genetic, pharmacological, and anatomically-minded neuroscientists may, as a group, hold that behaviour falls under genetic and epigenetic (nature) controls. After a half a century of dominance by the environmental theorists, the past two decades have witnessed a shift toward more genetically weighted theories, although it has become politically correct in the last decade to say that both genetics and the environment interact to form the basis for behaviour.

Expert review

For a substance that is so widely used, the paucity of evidence on the respiratory effects of smoking cannabis is surprising. The evidence that we have suggests that cannabis definitely does have respiratory effects, but that these are different to tobacco. The relationship between cannabis smoking and the common smoking-related problems associated with tobacco such as airway obstruction, emphysema and lung cancer is not clear. Notwithstanding the difficulties in conducting research on illegal substances and the problems of quantifying cannabis consumption, further studies with large population samples and long-term follow-up are needed.

Bullous emphysema in cannabis smokers

Case reports of bullous emphysema among cannabis smokers are difficult to reconcile with systematic observational data. These cases are probably rare, although they may also be under-recognized because of under-reporting of cannabis use. They are likely to represent the extreme end of the spectrum of cannabis-related lung disease, occurring only in very heavy smokers. However, the evidence remains anecdotal and the development of bullae and emphysema as a consequence of smoking cannabis is not supported by the available systematic observational studies. Clearly, more needs to be done to confirm whether there is a genuine cause-and-effect relationship between smoking cannabis and lung bullae and, if such a relationship exists, a threshold at which irreversible damage occurs. Research is needed into the methods of inhaling cannabis and the influence that this may have on its respiratory

effects. Whether breath-holding and Valsalva manoeuvres can explain the association between cannabis use and lung hyperinflation is intriguing: nothing in our understanding of lung physiology appears to indicate that such simple manoeuvres could make such a marked difference to lung function.

Does cannabis have therapeutic potential as an acute bronchodilator?

A relatively unexplored area is whether cannabis has therapeutic potential as an acute bronchodilator, either as an adjunct or an alternative to current drugs. Cannabis has a long history as an alleged ‘treatment for asthma’. It is unlikely that anyone would advocate smoking cannabis to treat obstructive airways disease, but there may be less harmful ways to deliver the drug. Early research investigated the effects of cannabis aerosols. More recently, vaporisers have been proposed as a method of inhaling ‘medical cannabis’ in a smoke-free form. An internet survey suggested that users of vapourisers allegedly have fewer respiratory symptoms but there have been no published long-term studies of their effects.

Despite the continuing uncertainty regarding the effects of cannabis on the lungs, we suggest that health practitioners routinely ask about cannabis use when taking a medical history. Although medical students are taught to ask about illicit drugs (particularly intravenous drugs), until recently, little attention has been given to quantifying cannabis use. Given the widespread use of this substance in many countries, this should be carried out far more often. It is particularly important for patients with unexplained respiratory symptoms, apparently ‘idiopathic’ lung bullae or pneumothorax, lung, and head and neck cancers. While the relationship between cannabis and these diseases are still unproven, raising awareness of cannabis use is likely to establish whether there is a causal relationship or not.

Drugs policy

There is strong evidence that cannabis causes bronchial inflammation, respiratory symptoms and affects lung function. It is clear that smoking cannabis is *not harmless* to the lungs. Cannabis is a controversial cause of lung cancer and emphysematous bullae in a small but

uncertain number of users. All over the world, countries' future drugs policies should encourage further research into the health effects of smoking cannabis. Cannabis has been shown to have a range of effects on lung function that are different to those found with tobacco. Acute inhalation of cannabis produces broncho-dilation, but chronic use is associated with bronchitic symptoms, central airway inflammation, and increased large airway resistance to airflow. There is also evidence for lung hyperinflation. Cannabis also contains many carcinogenic substances but it remains controversial whether it is a cause of lung malignancies.²¹

Public health warning needed

Cannabis use may play a causal role in the development of psychotic disorders, including schizophrenia, new research suggests.²² In a meta-analysis of more than 80 studies, investigators found that the mean age at illness onset was more than 2.5 years earlier for cannabis users compared with nonusers. However, age of onset did not significantly differ between alcohol users and nonusers. The investigators noted that decreasing this use could delay or even prevent some cases of psychosis.

'Reducing the use of cannabis could be one of the few ways of altering the outcome of the illness because earlier onset of schizophrenia is associated with a worse prognosis and because other factors associated with age at onset, such as family history and sex, cannot be changed. The results of this study confirm the need for a renewed public health warning.'

Further research findings send out warning against legalising cannabis

Recent research findings give out a warning sign to the legalisation of cannabis. Early adolescent cannabis use may contribute to the development of symptoms of schizotypal personality disorder (SPD) in adulthood, according to new data from a longitudinal cohort study. The author of the study said that the uniqueness of the study lay in the demonstration

²¹ Robert J. Hancox and Marcus H.S. Lee, 'Effects of smoking cannabis on lung function', *Medscape*, 22 August 2011.

²² Deborah Brauser, 'Cannabis use linked to earlier onset of psychotic disorders', *Medscape*, 14 February 2011.
Megan Brooks, 'Early cannabis use tied to Schizotypal Personality Disorder', *Medscape*, 17 May 2012.

of an association between early cannabis use and subsequent schizophrenia-like symptoms that persisted into adulthood and that was not explained by early anxiety or depressive disorders, or exposure to other drug and cigarette use. In addition, this study adds to the literature by demonstrating that this association...was not only limited to those already exhibiting higher levels of these symptoms during childhood and adolescence.

Mounting evidence indicates that cannabis use is temporally associated with the development of schizophrenia in some young people, but less is known about its relationship to latent SPD traits. SPD symptoms are characterized by attenuated psychotic symptoms that include unusual perceptual experiences and beliefs and odd and withdrawn behaviour. The study consisted of an analysis of data on 804 participants enrolled in the longitudinal 'Children in the Community' cohort study from upstate New York. Participants were assessed for cannabis use and Axis I and II disorders, beginning at a mean age of 13 years (range, 9 - 18 years), and again at around the ages of 16, 22, and 33 years. The researchers report that cannabis use before the age of 14 years strongly predicted schizotypal symptoms in adulthood, independent of early adolescent schizotypy, major depression, anxiety, other drug use, and cigarette use.

Jurisdiction issues

The unilateral legalising of cannabis in Uruguay needs to be more thoroughly thought through and research and reports need to be assimilated before laws to legalise the production of cannabis are made, notwithstanding many such laws already stand in the United States, a country from which many follow by example. As in 1972, today there still remains a fear that drugs destroy the moral fabric of society. Use of the drug is linked with idleness, lack of motivation, hedonism and sexual promiscuity. Many see the drug as fostering a counterculture which conflicts with basic moral precepts as well as with the operating functions of our society. The 'dropping out' or rejection of the established value system is viewed with an undercurrent of alarm. Thus, cannabis and marihuana becomes more than a recreational drug; the smoking of drugs becomes a symbol of the rejection of cherished values. It is still the case that cannabis use puts forward moral wrongs inflicted by the drug

use to justify criminalizing its users and that is that it inflicts harm on others; it inflicts harm on the user himself; it makes users unproductive members of society.

With regard to criminal law, Uruguay might wish to consider the foolishness of adopting another country's laws wholesale and do well to remember, as the world watches, that in most countries, cannabis is still a controlled drug²³ and drug legislation has been very carefully worded so that it is not only the illegal end user of controlled drugs who is subject to prosecution, but, importantly, the people involved in supplying the drug.²⁴ Such criminal offences stigmatise the perpetrator and hence intentionally stigmatises deviant behaviour in order to provide incentives for compliance with social norms.²⁵

Opinio juris

In an increasingly globalised world, actions by one state can create transnational external effects beyond their borders and perhaps international agreements could enable states to adopt actions to bring equilibrium.²⁶ Unilaterally, the move by Uruguay, some states in the US, and Switzerland to legalise the free use controlled drugs in their many formats, gives rise to concern that perhaps international law should be called upon to deal with drug trafficking, although this will be difficult because international law derives from treaty-making and custom, the former presenting persistent issues of interpretation and scope; technical questions as to whether a treaty is in force; the means by which a treaty can be suspended; and the doctrine of *opinio juris* as regards custom, ie, the belief that the practice reflects a legal obligation rather than only a policy preference. Another issue is whether a treaty maker has in domestic law, the capacity to make an order that will bind a domestic court.²⁷

²³ In the UK, for example, cannabis leaves and cannabis resin are classed as a controlled 'Class B' drug according to the UK Misuse of Drugs Act 1971 and there is a structured set of rules as to its unlawful possession. Possession of a Class B drug carries a three month imprisonment potential for a summary offence and possible 5 years imprisonment for an indictable offence.

²⁴ The cultivation of cannabis is charged under s. 4(2) Misuse of Drugs Act 1971 as cultivation of a Class B controlled drug or alternatively under s. 6 (2) specifically related to cannabis. There is one statutory defence s.28 MDA. See *R v McNamara* (1988) 152 JP 390.

²⁵ Drug use is often seen, (like prostitution, abortion, and sodomy, criminalised in some jurisdictions), as a victimless crime.

²⁶ Parisi, F. (Editor) (2011) *Production of legal rules*, Cheltenham: Edward Elgar Publishing Inc.

²⁷ See *Sosa v Alvarez-Machain*, 542 US 692, 734 (2004) [treating reservation as legally binding on domestic court]. See also *Igartua-de la Roas v United States*, 417 F3d, 186-9 [argument that US treaty makers lack constitutional authority to impose orders that would limit judicial power].

Conclusion

The news that Uruguay plans to nationalise the production of cannabis has brought out liberal thinkers around the world, 'baying' for the free use of drugs. This is ignoring the medical facts, notwithstanding its destruction of the fabric of our society.



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