

# THE RISE OF CANNABIS PROHIBITION AND RE-RECOGNITION OF ITS MEDICAL BENEFITS

## VZPON PROHIBICIJE KONOPLJE in PONOVRNO PRIZNANJE NJENIH ZDRAVSTVENIH KORISTI

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Drug prohibition is the strategy and practice of forbidding psychoactive plant or substance by law. More particularly the term refers to the banning of cultivation, production, storage, distribution, sale, possession, and consumption of psychoactive plants and substances (»drugs«). The word is also used to refer to a period of time during which such bans are enforced. The international conventions, however, never contained the term prohibition, but used the term drug control regime instead. Also, they provided flexibilities in drug control conventions to decriminalize the possession, purchase or cultivation of controlled plants and substances for personal consumption.

Increased restrictions, labeling of cannabis as a »poison« and criminalization began in 1900s in USA. The use of cannabis came under scrutiny after formation of the Federal Bureau of Narcotics (FBN) headed by Harry J. Anslinger as part of the government attempt to outlaw the recreational drugs. Initially there was the concern to ensure the availability of scrutinized plants and substances for medical and scientific purposes. Historically, however, it had been the repression and criminalization that had been prioritised. The extremely effective political propaganda, supported by yellow journalism had distorted the evidence on the benefits of the cannabis. This first led to the cannabis prohibition in USA that was subsequently internationalised leading in turn to national bans in other countries.

### **The Anslinger's curse**

**Harry Anslinger (1892 – 1975)**, was influential American politician and moral crusader who viewed cannabis consumption as morally wrong. He headed the the Federal Bureau of Narcotics (FBN)- the predecessor of the contemporary Drug Enforcement Administration (DEA), and had started the zealous campaign against cannabis. Some historians claimed that he actually started »the war on drugs« and US president **Richard Nixon's** who declared »war on drugs« in 1971, just followed the Anslinger's footsteps. Anslinger brought about the downfall of cannabis' legal and social status in spite of its many socially beneficial applications. "Anslingerian" politics of the early twentieth century, including the spread of the image of cannabis as the "killer weed", had continued to prevent an examination of

cannabis' therapeutic potential by medical experts and medical cannabis' legal acceptance under law to this day.

Anslinger had political interest in spreading fake information to the public and government because he wanted to create the public moral panic and the political response to shape the national and international cannabis control. His philosophy was essentially that any drug use was a crime and that the only way of dealing with it was by means of criminalisation of all involved, from users to dealers and smugglers.

He and his FBN crafted and legitimized a specific interpretation of cannabis that remained dominant by virtue of its monopolization. Researchers who did research that was unwelcome to FBN or who spoke out about medicinal use of cannabis, came under attack, and were silenced and suppressed in many ways. The suppression occurred by preventing creation or dissemination of data. Information that did not support Anslinger's views were distorted. Physicians and other scientists were alerted to cues about what was permitted and expected from them. FBN had power to control the flow of information concerning cannabis by either legitimating or suppressing it. The orchestrated propagation of only negative images of cannabis had broad policy impact. Anslinger successfully translated biased colonial information concerning association of cannabis with violent crimes and madness into national and international drug policy. He knew how to transform exaggerated or fake concern over cannabis effects into an object of the national and global anxiety.

Cannabis became demonised and won negatively charged symbolism with which the plant had been associated. Initially the demonization of the cannabis plant was an extension of the demonization of the Mexican immigrants. The practice of smoking cannabis was largely unknown in the USA until it was introduced by these immigrants during the first few decades of the twentieth century. That introduction, in turn, generated a reaction in the society, tinged perhaps with anti-Mexican xenophobia. The fact that cannabis smoking was a habit of immigrants and the lower class clearly played a role in its prohibition. The idea was to have an excuse to search, detain and deport Mexican immigrants. This method of controlling people by controlling their customs, life style and drugs was so much successful that it became a national strategy for keeping certain populations under the watch and control of governments. The politicians and media began to play on the fears that public had about the immigrants by falsely spreading claims about their disruptive behaviours. Many claims were made about ability of a cannabis to cause men of color to become violent and solicit sex from white women.

In 1933, not long after alcohol prohibition was overturned, Anslinger organized the additional quasi public health campaign to frighten the public into thinking that cannabis was highly addictive and deadly substance. FBN was producing all kind of propaganda materials promoting negative perception of immigrants and promoting fear of cannabis and using dubious anecdotes on connections between cannabis and violent crime to stigmatize the plant. In 1937, Anslinger wrote an article "Marijuana — Assassin of Youth," portraying cannabis as the madness, violence and death inducing drug. The campaign was constructed without concern for the truth and spread horrifying stories of rapes and

murders by "negroes, mexicans and orientals" who were supposedly committing these crimes under the influence of cannabis.

### **The role of yellow journalism in spreading moral panic**

In late 1920s , American politician and newspaper mogul **William Randolph Hearst (1863 – 1951)** joined the Anslinger's prohibition campaign to further demonize the plant and spread public panic. There was significant rise in yellow journalism condemning the use of cannabis. Hysterical claims about cannabis began to circulate, such as allegations that it caused a lust for blood and sexual violence. Hearst stood at the center of a anticannabis media campaigns based on xenophobia, racism, sensationalism, and social control of racial minorities. In 1923, one of his influential newspapers reported : *»Marihuana is a short cut to the insane asylum. Smoke marihuana cigarettes for a month and what was once your brain will be nothing but a storehouse for horrid specters.«* Another articles explained how *marijuana* was known in India as the murder drug and that it was common for smokers to use knives, running through streets, hacking and killing. One article concluded that one could grow enough cannabis in a window box to drive mad the whole population of the United States. Newspaper were floded with misinformation to create panic and hundreds of similar fake stories were fabricated to influence the public's opinion and to get legislative reaction. The stories were based on Anslinger's misliding propaganda. The typical titles were: *"Delirium or death: terrible effects produced by certain plants and weeds grown in Mexico"* or *"Mexican, Crazyed by Marihuana, Runs Amuck With Butcher Knife"* . The typical fake stories often began with the description of coloured man who smoked a marihuana cigarette, attacked , badly wounded or killed few policemen. Many policemen were needed to disarm a crazed cannabis users and march him to the police station to be put into a straight jacket. The conclusion of such stories were that such occurrences were frequent and that all people who smoked marihuana would finally lost their mind and never recover again. Their brains would dried up and they would die. In this way newspapers, magazines and other media aroused the social concern and feelings of fear generated the moral panic among public. Hearst knew well that supporting anti-cannabis campaigns was good for public relations and for his business. Together with Anslinger, he became important player in the dissemination of moral indignation and panic. Reporting sensational anecdotes linking cannabis, coulored people and threat of violence and death, without any evidence, was enough to generate concern and anxiety.

### **Reefer madness campaign**

The »reefer madness«campaign was an attempt to to paint cannabis as the most dangerous »narcotic drug« and create the cannabis scare. »Reefer« was a slang term often referring to a joint - a cigarret with cannabis. The campaign was created by Anslinger who insisted that cannabis use led to insanity, criminality, and death. The »Reefer Madness« campaign,

originally titled »Tell your children«, was also the title of propagandistic film from 1936 about negative effects that marijuana would have on humanity. The movie was made as part of the campaign to use misleading information and present them as scientific facts. It followed the stories of few high schoolers who met marijuana dealer, started hanging in »reefer house« and ruin their lives. One scene was about a cannabis smoking man who killed his whole family with an axe. Another was about a woman who got high and was raped by five men. Multiple times throughout this film, cannabis users were portrayed as junkies who became maniacal any time they needed to use cannabis. It showed how cannabis caused people to commit violent crimes and act irrationally and overly sexual. The overall goal of the movie was to show that cannabis was extremely dangerous drug, more dangerous than heroin and the message was: »if you use drugs, this is your future«. The other two movies with the same goal were »Marihuana« and »Assassin of Youth«. These films were partly financed by FBN and mirrored almost perfectly its boss's claims which hysterically portrayed "marihuana" as a »devil weed« that threatened communities, society and Western civilization.

Based on these claims the editorial article in the Washington Times wrote: *»The marihuana cigarette is one of the most insidious of all forms of dope, largely because of the failure of the public to understand its fatal qualities. The Nation is almost defenseless against it, having no Federal laws to cope with it and virtually no organized campaign for combating it. The result is tragic. School children are the prey of peddlers who infest school neighborhoods. High school boys and girls buy the destructive weed without knowledge of its capacity of harm, and conscienceless dealers sell it with impunity. This is a national problem, and it must have national attention. The fatal marihuana cigarette must be recognized as a deadly drug, and American children must be protected against it... it is time to wipe out the evil before it potentiates for national degeneracy become more apparent.«*

Historians also pointed to another moral crusade named Emily Murphy, Canadian suffragist and judicial officer and one of the pioneers in the war on cannabis and other drugs, who wrote a series of articles, linking drugs and immigration in popular Canadian magazines. In 1922, she published these articles in her book titled »The Black Candle« which made strong link between cannabis and other drugs, race and the threat the link posed to white women. Murphy's and others anti-drugs books were translated and widely read and helped to spread the cannabis panic across the world.

### **Link between the word »marihuana« and the history of immigration in USA**

Prior to 1937, "marihuana" was only slang and Mexican word for cannabis. Historians wrote that the exotic word marihuana was included by purpose, emphasizing the plant's foreignness and to amplify the xenophobic response of the time. The term »marihuana« soon dominated the public and political discourse in many countries. The new name helped to demonize the plant and to promote the foreignness of the drug and thus stoke

xenophobia. »Marijuana« was portrayed it as something external, something that had no medical use and was invading Western world.

Cannabis demonization was an extension of the demonization of the Mexican immigrants. In the early 1900's just after the Mexican Revolution, the USA experienced the influx of immigration from Mexico. The immigrants brought with them their native language, culture and customs. One of these customs was the smoking of cannabis for medical and recreation purposes. Mexican immigrants referred to cannabis plant as "marihuana". Americans were already familiar with cannabis because it was present in almost all tinctures and medicines available at the time. But the word "marihuana" was a foreign term. The media began to spread fear of immigrants falsely claiming about the "disruptive Mexicans" with their dangerous native behaviors, including »marihuana« use. The public did not know that this "marihuana" was a plant they already had in their medicine cabinets.

### **The marihuana tax act**

The Anslinger's and other prohibitionists' campaign eventually led to the promulgation of **the Marihuana Tax Act, America's first anti-cannabis legislation, in 1937**. The purpose of the Marihuana Tax Act was the regulation of importation, cultivation, possession and distribution of cannabis by raising the revenue. In practice the law provided legal mechanism to enforce prohibition of all uses of cannabis. It ended its use in medicine. The law also legitimized the use of the term "marijuana" as a label for cannabis and its products, which was included in official documents. Under this legislation: "anyone using the hemp plant for certain defined industrial or medical purposes was required to register and pay a tax of a dollar an ounce. A person using marihuana for any other purpose had to pay a tax of \$100 an ounce on unregistered transactions. Those who failed to comply were subject to large fines or prison for tax evasion...its purpose was to discourage recreational marihuana smoking."

The decision of US Congress to pass Marihuana Tax Act of 1937 was primarily based on the political interest and pressure of Anslinger and FBN, together with the commercial interests to destroy the cannabis industry. Also, racist sentiments toward Mexicans and African-Americans played a key role in enabling crusaders like Anslinger to push the Marihuana Tax Act through to passage despite a lack of empirical evidence of marijuana's harmful effects. The Anslinger's reports to the government were based on the questionable studies and biased colonial information. The evidence-based position of American Medical Association (AMA) was overruled. The cannabis was singled out as something more pernicious than other herbal remedies of the time. Rapidly disappearing was also media coverage of the medical benefits of cannabis

In 1937, the decision of US Government to pass » The Marihuana Tax Act « was based on his and FBN political propaganda not science. Anslinger testified before the Congress with the following disinformation designed to scare the public : *»Most marijuana smokers are*

*Negroes, Hispanics, jazz musicians, and entertainers. Their satanic music is driven by marijuana, and marijuana smoking by white women makes them want to seek sexual relations with Negroes, entertainers, and others. It is a drug that causes insanity, criminality, and death – the most violence-causing drug in the history of mankind. »*

### **The opposition to prohibition**

Nonetheless, some cannabis research continued and the advances towards identifying and isolating important constituents of the plant took place in the 1930s and 1940s. Some professionals continued to encourage politicians to introduce evidence based cannabis policy.

The honest (medical and other) professionals found themselves in a difficult position when investigating the anti-cannabis claims, articles, books and movies. Some were aware that most stories were exaggerated propaganda with a goal to eliminate cannabis use, including to destroy hemp industry. Some were confused and not certain of the intent behind the political and media misinformation-based campaigns, but they were also afraid to be sued for libel if they would wrongfully call Anslinger and his supporters the liars.

Until the passage of the Marihuana Tax Act, U.S. physicians prescribed many different medicines containing cannabis that they used to treat various ailments. They disagreed with the Act's proposal. Also, most physicians were initially unaware that "marihuana" was the same popular cannabis medicine they used often to recommend to their patients.

In hearings concerning the Act, the only witness to speak against the bill was a representative of the American Medical Association, who congressmen accused of obstructionism and misrepresenting the AMA's views. Anslinger favored strict legal penalties against cannabis and worked behind the scenes to discredit research that contradicted his views on the danger of cannabis or the effectiveness of prohibition.

**William Creighton Woodward (1867 –1949)** was the one of the courageous and honest physicians and lawyers who decided to dissent from the Anslinger's and FBN's lies and deceptions. During the 1937 hearings for the Marihuana Tax Act, he defended the position of American Medical Association's (AMA) which was that cannabis should be regulated but not prohibited. In his lengthy testimony, he refuted the hyperbolic claims put forward by Anslinger and other proponents of cannabis prohibition, offering a prescient view of how a society should handle drug addiction in general, and cannabis in particular.

Woodward disagreed with the Marihuana Tax Act that would prohibit the use of cannabis in medicine because huge taxes would be imposed on physicians prescribing cannabis and on retail pharmacists selling cannabis and thus deprived patients of their medicine. Also, Woodward objected to the Act on the grounds that the bill was prepared in secret without giving proper time to prepare the opposition to the bill. He doubted the claims that cannabis caused addiction, violence and other harm. He presented the epidemiology data to refute these claims. He pointed out that all the evidence on which the need for this legislation was

based came in the form of newspaper articles- most of which were fed to the press by Anslinger and FBN, and not from medical sources.

He further asserted that the term »marihuana« was largely unknown in medical society and thus the physicians could not realize they were losing cannabis for medical use by this Act: *»I say the medicinal use of cannabis has nothing to do with Cannabis or marihuana addiction. In all that you have heard here thus far, no mention has been made of any excessive use of the drug by any doctor or its excessive distribution by any pharmacist. And yet the burden of this bill is placed heavily on the doctors and pharmacists of the country; and I may say very heavily, most heavily, possibly of all, on the farmers of the country.... most physicians would want to preserve the right to use it, probably. I do not know how many. The drug, however, is a peculiar drug. The products are uncertain in their action and the composition of the drug is hardly understood. We do not know that the resin which is said to be the active principle is in fact the active principle, but may be broken down into other ingredients, some of which may have one effect and some of which may have another...«* .

Also during the hearings concerning the Marihuana Tax Act , some of the biggest opponents to the Act's passage were manufacturers of hemprope, hempseed, and hempoil, who were concerned about the impact the act would have on their economic interests. Also, there were indications that paper and textile manufacturers, chemical companies and other industries that competed with the cannabis industry in the production of paper and other products also applied some of the pressure to policymakers that resulted in the passage of the Marihuana Tax Act. The Act was passed in 1937 and cannabis in the United States became prohibitively expensive and bureaucratically time-consuming crop to grow. The Marihuana Tax Act, in combination with a long line of other U.S. legislative actions, also heavily influenced economic, social, and environmental values all over the world, resulting in severe decreases in worldwide cannabis harvesting.

Physicians were not in position to comply with the administrative rules. In addition, FBN even followed up with »anti-diversion« regulations that contributed to physicians' dissatisfaction. The legislation made cannabis for any purpose other than medical use prohibitively expensive. Moreover, it made even medical use virtually impossible because of extensive paperwork requirements placed on physicians attempting to prescribe it. The Act also contained a tax stamp requirement for all sales of cannabis products, which the federal government almost invariably refused to issue. The combination of financial and bureaucratic obstacles effectively eliminated legal dealings with cannabis products, regardless of purpose. Also, the Act prevented the further cannabis research in medicine. Finally, cannabis was removed from the US Pharmacopeia in 1941.

### **La Guardia report**

Shortly after the passage of the Marihuana Tax Act, New York's Mayor **Fiorello Henry La Guardia La Guardia (1882 – 1947)** , who opposed the Act, formed a large team of physicians and other experts to study the sociological, medical, and psychological consequences of cannabis use. The report, published in 1944, concluded that there was no

evidence that smoking cannabis resulted in insanity, deteriorated physical and mental health, assisted in criminal behavior and juvenile delinquency, was physically addictive, and was a "gateway" drug to more dangerous drugs. The report infuriated Anslinger, who condemned it as unscientific. He attacked and denounced the physicians and New York Academy of Medicine who were analysing the past studies and conducting additional research for more than five years. Anslinger ordered them that they should not conduct more experiments or studies on cannabis without his personal permission.

The AMA first published an editorial that validated the La Guardia study as "a careful study" and mentioned the therapeutic potential of cannabis. However, fanatic Anslinger quickly responded with writing a letter to the AMA severely criticizing this study. Mysteriously, at that point, the AMA joined Anslinger and FBN in the denunciation of the study. AMA published another editorial with a position which reflected the one of the Anslinger's and advised public to disregard La Guardia study as "unscientific".

With the support from the AMA, Anslinger was able to exert his power to shape cannabis policy, circumscribing medical and scientific evidence. He intensified the war on drugs by convincing Congress to pass the Boggs Act in 1951 and Narcotics Control Act in 1956 which further intensified the penalties for cannabis crimes.

Through persistent campaigns the «marihuana» was represented in the international media as »demonic substance«, »evil weed« and »deadly narcotic« associated with insanity, murder, rape and similar evils.

### **The history of the international ( UN) drug control regime**

In 1920, following the Paris Peace Conference that ended the First World War, the League of Nations ( LON), the predecessor of the United Nations, was founded. The LON was also supposed to create the system for the protection of minorities against colonialism and imperialism. The idea of a permanent international institution to prevent conflict between different nations and ensure peace had appealed to intellectuals for centuries. However, LON predominately reflected the economic and political interests of the imperial and colonial powers not those of the subjugated societies. In addition, LON's efforts to regulate cannabis and other drugs was never for the benefit of those who suffered the most from colonialism and imperialism. These global efforts, from the beginning, arose out of colonial structures that prioritised the interests of white racial dominance.

At that time cannabis was already making its way to Europe. LON no longer saw it as only the problem of natives in colonies. Relying on colonial information the international discussions on cannabis were informed by colonial racist assumptions about coloured native people. In addition, they were influenced by Western moral and xenophobic traditions.

In 1925, the members of the LON signed the revised International Opium Convention and for the first time adding cannabis among substances under control. It was Egypt's suggestion to add cannabis to coca and opium. Cannabis use was painted and understood as evil weed

with its roots in hell. At the same time most national representatives to the LON admitted that they had never heard of cannabis before.

The restrictions were predominately fuelled by the USA political interest. Since 1937 when the Marijuana Tax Act was issued in USA, a series of prohibition laws had already been subsequently enacted to ban cannabis. Cannabis was becoming the public enemy number. USA's propaganda was encouraging the rest of the world to support the restrictions. In its 1934 report the LON, agreed with USA that cannabis had no medical value.

In the years 1934–1939, the LON was reviewing the international controls on cannabis. To further denigrate and stigmatize cannabis and to stop its medicinal use, cannabis was removed from many Western countries' pharmacopoeias. The propaganda stated that traditional practices, including religious use and the widespread “quasi medical” use of cannabis would have to be abolished because of the danger to the world. These placed an especially heavy burden on the cannabis traditional producer countries in Asia, Latin America and Africa. The restrictions were imposed on exports but did not make cultivation illegal, let alone make these activities a criminal offence.

The legacy of LON's colonial discourses on cannabis and the prohibitionist ideals influenced the general orientation and content of the post WW2 conventions on drugs. Also, it was used as justification by World Health Organization (WHO) for keeping cannabis among most dangerous controlled drugs, cherishing the illusion that, by disallowing medical use, recreational use of cannabis could be restricted.

### **Three key UN treaties shaping international drug law today**

The USA emerged from Second World War as dominant political, economic and military power and was then in position to pressure other countries to adopt its prohibitionist ideals. The variety of enduring disinformation continued to manipulate peoples' perception and choice, defined the market and threatened availability of medical cannabis for patients who needed it. The scare tactics and sensational claims used against cannabis continued to grow. After relatively short golden age of cannabis use in the Western medicine, the world gradually entered the prohibition, which became political movement that drastically changed the public perception of cannabis. Based on overestimation and misrepresentations of the reports from colonies, cannabis was recognized as one of the most dangerous narcotic plants not to be used for pleasure, recreation and entertainment. International initiatives to control cannabis were rooted in these stereotypes, prejudices and hypocrisy, starting with earlier agreements. These agreements were superseded by the 1961 UN Single Convention. This convention defined a number of plants and substances, including cannabis as narcotic drugs. Cannabis for medical and research purposes was put under strict control.

The UN Single Convention established the «scheduling»- a system by which cannabis and other narcotic drugs were ranked according to presumed harms, and placed in one of four «schedules» that should reflect their dangerousness.

The three UN treaties shaping international and national laws on drugs were:

- The 1961 UN Single Convention on Narcotic Drugs
- The 1971 UN Convention on Psychotropic Substances
- The 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

Contrary to what was commonly believed, none of the controlled drugs were declared »illegal«. The substances in themselves were not prohibited. The international drug control did not directly ban cannabis or cannabis-based products use in medicine . The terms »illegal drug« did not actually appear in the UN conventions. There was no specific obligation in the conventions to make cannabis use per se a criminal offence. Cannabis use was not mentioned among the »penal provisions« in the Singel Convention or in the 1971 Convention or in the 1988 Covention. The treaties did not require countries to »prohibit« any of classified substances in themselves. They only establish a system of strict control of production and supply of all the controlled drugs for medical and scientific purposes, as well as for other purposes. The 1961 Convention only required that the use of cannabis and other drugs in the most restrictive schedule IV would be prohibited if the party should had determine that »the prevailling conditions in its country« meant that this was » the most appropriate means of protecting the public health and wefare«. Thus , the Conventions did not oblige countries to impose any penalty- criminal or administrative, for cannabis use as such. This eventually led to different access for patients to cannabis in different countries.

The conventions were binding agreements that required countries to restrict the supply of controlled drugs for pleasure, recreation and entertainment. They had two core purposes: restricting and preventing the production, supply and use of non-medical drugs in the international drug control system, and ensuring a limited supply of some plants and substances for medical use and science. Although the protection of health and wefare might had been considered the basic principles of the conventions, in practice the national drug control systems had resulted in unprecedented human rights abuses across the globe.

Historically, the restrictions and repression were always prioritized. The construction of an international legal framework for some drugs had not challenged the racial and moral roots of cannabis regulation that grew from colonial system. All thre UN Conventions reflected the geopolitics of past colonialism and North-South relations in the 20th century. The strictest controls were placed on coca, poppy and cannabis, which were traditional plants of less developed countries. However, tobacco, alcohol and pharmaceutical substances that were mainly produced by the developed North, were subject to regulation rather than the prohibitive restrictions.

## Power and negotiation

In 1946, the Commission on Narcotic Drugs (CND) was established to analyze the situation on cannabis, to introduce additional restrictions and to supervise the international control. The path towards the prohibitive control regime was not straightforward and before the restrictions were introduced there were considerable disagreements on how to regulate cannabis. The key dilemma was whether cannabis use in medicine was justifiable or not. Some countries defending the medical value of cannabis, claiming that cannabis had been grown for centuries for medicinal purposes by peoples in Asia, Africa and South America, professing that future research might well reveal further medicinal benefits. They complained that too many restrictions on cannabis would bring only harm. They argued that they preferred to leave to physicians the freedom to choose between medicines and therefore favoured control rather than prohibition of cannabis. India insisted that the use of cannabis in non-Western systems of medicine should be acknowledged as legitimate. The delegates demonstrated that cannabis was indispensable traditional medicine, by which a very large proportion of the Indian population was treated. However, USA showed cultural insensitivity and exploited its power within the UN to push successfully for more stringent control of cannabis. Their representatives were unshakeable that this Asian therapeutic tradition should be dismissed as the quasi-medical use. This provoked a fierce rebuke from the Government of India: *»Indigenous systems of medicine such as the Ayurvedic and Unani systems which had been in existence in India on an organized basis for hundreds of years, and on which large sections of the population continue to depend for medical treatment, were just as much entitled to be called medical, and not quasi-medical, as the allopathic and homeopathic systems were. They did not become quasi-medical merely because they were not Western systems.«* (Commission on Narcotic Drugs Tenth Session, 1955). The Indian delegates clearly declared that their delegation was not supporting prohibition, since most Indian people used cannabis in moderation and emphasized the traditional use of cannabis for medicinal purposes.

However, Anslinger and the US delegation, wanted to prohibit and eradicate cannabis globally. After the Second World War the US was the dominant country which could persuade other countries to adopt stricter policies. The drafting of the cannabis paragraphs for the Single Convention was the culmination of the Anslinger's career. He was holding influential UN positions and was lobbying for the strictest control measures that would make it impossible for signatory countries to relax their cannabis policies in future. Unfortunately most delegates and UN officials fell under the influence of his lobbying and took biased and ideology driven view of the cannabis control.

The questions about the control of the traditional uses of cannabis remained unresolved. According to Universal Declaration of Human Rights, access to traditional medicine should be included within the right to health and was also protected under the United Nations Declaration on the Rights of Indigenous People. Finally it was recognized that cannabis had

been used in traditional medicine in some countries for centuries. These countries were allowed the moratorium to phase out the use of cannabis for purposes other than medical and scientific. But it remained unclear if traditional medical use is part of the traditional cannabis use.

CND at that time was nascent bodies that was engaged in finding out positions for itself. The bureaucrats were seeking to widen their spheres of interest by exaggerating cannabis problems that they claimed it was their responsibility to fix. In 1954, the WHO's position was that »from a medical point of view it could be said that cannabis preparations no longer served any useful purpose«. CND, the main legislative and policy-making body within the UN drug control system, had endorsed this WHO's position and stated that »cannabis should be abolished from all legitimate medical practice«. UN bureaucracy turned a blind eye to any evidence that contradicted international anti-cannabis platform. CND reviewed and analyzes the situation and statements of the delegations during many meetings. More harmful alcohol and tobacco, that were thoroughly embedded in Western culture, were not even considered as drugs, and remained outside the international control system. Also, some developed Western countries were lobbying on behalf of their domestic pharmaceutical industries and gave cultural preference for synthetic drugs as opposed to plants derived products still in use in ex-colonies. During the negotiations there was even a failed attempt to make cannabis the only fully prohibited substance on the premise that "the medical use of cannabis was practically obsolete and that such use was no longer justified".

CND finally reached the verdict that cannabis had no medicinal value on the basis of the biased unscientific documentation provided by Anslinger. Cannabis was included under the strictest controls in the Single Convention. This anomaly in the scheduling system worsened when the treaty structure further developed with the 1971 and 1988 Conventions.

Also, it was agreed that cannabis leaves should be subject to a less rigid regime than the fruiting or flowering tops or the resin of the cannabis plant. The convention defined »cannabis« as »the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated. Parties to the treaty were thus not required to outlaw or criminalise cultivation, sale or use of cannabis leaves for whatever purpose. Regardless of this possible exception, most national drug laws embodied the strategy to curtail and eventually eliminate the cultivation, production, trafficking and use of cannabis. Cannabis was most often scheduled among substances which were most dangerous and often deadly. This misbelief had acted for many years as a barrier to research and development of cannabis-related preparation for medicinal use.

The convention embodies the general strategy of the developed Western countries to curtail and eventually eliminate the cultivation of drug producing plants. The provision placed a heavy burden on the traditional producing countries where cultivation and widespread traditional use of cannabis was evidenced in colonial times and before. The Single Convention set the target of abolishing all traditional uses of cannabis within 25 years. Given that the Convention entered into force in 1964, the 25-year period for gradually eliminating cannabis expired in 1989.

### **Collateral damage**

When countries joined the international drug control regime, they had committed to introducing analogous rules in their national laws. The international drug control regime determined national law enforcement priorities and sentences handed down by judges. Most governments placed cannabis in the most restrictive scheme of their drugs laws, labeled the plant as having no medical value and used term »illegal drug« to prohibit cannabis.

The central aim of cannabis policies based on the conventions was to create a cannabis-free societies. To achieve this aim, most countries had adopted a punitive, enforcement-led approach towards all cannabis users. The main strategy used to address cannabis-related problems had been based on repression. It, however, was based on false premises about human behaviour and social dynamics. It had been demonstrated to be ineffective in reducing abuse and actually created considerable additional problems. It was utterly inhuman that legal restrictions drove suffering cannabis patients to be criminals to get the treatment they needed.

The Convention was not even in print before the debate and dissent about the anomalous status of cannabis restarted. In 1960, despite this trend of prohibition, or perhaps because of it, larger numbers of Western and white and young people began to smoke cannabis for recreation. Most consumption was not harmful, however the constant anti-cannabis propaganda told the public that the consumption of cannabis was always harmful, i.e. all use is abuse. Also the public was told that law and repression could eliminate production, distribution and consumption. All of which had been demonstrated by science to be false. However this science was ignored. Also, medical profession stopped to differentiate use from abuse and focused only on the risks. Medicinal use of the plant became of secondary importance and the past knowledge about its medicinal value was ignored.

Researchers had noted many other negative side effects of repressive drug laws. These laws deeply affected the lives, health and well being of many people around the world. In the name of drug control fundamental human rights were being violated all over the world, including the right to life and health; the right to be free from discrimination; the right not to be subjected to torture or cruel treatment; the right to due process; the economic, social and cultural rights of natives (indigenous peoples); the children's rights, among others.

The collateral damage included the creation of a huge, international criminal black market that fueled corruption and violence with police harassment, arbitrary detention, disproportionate sentencing and incarceration, discrimination, violations of the right to health, and other ill-treatment of cannabis users. Patients who used cannabis for medical purposes were most often easy targets on the law-enforcement radars. The ban on medical cannabis certainly had not reduced »recreational« use but had denied access for patients who need it and were unresponsive to conventional medications.

Large numbers of predominantly young people started receiving fines, convictions and in some cases prison sentences. But, the unmet need of pain relief and palliative care due to the strict enforcement of the convention was perhaps one of the most serious consequences for mankind. Hundreds of thousands of cannabis users, including self-medicating patients, were prosecuted. Cannabis could not be prescribed by physicians and patients had to buy cannabis in black market which grew. These collateral consequences led to substantial human suffering and have absorbed large amounts of human and economic resources that might have been allocated to other policy goals. This triggered more public debates and many national groups examined these problems and often recommended changes in drug laws concerning cannabis. There was agreement that the criminalization of cannabis users was excessive and measures counterproductive.

Not facilitating the access to cannabis for people who might need it for treatment was “de facto» denial of access to pain relief and other possible benefits, what constituted cruel, inhuman or degrading treatment or punishment. This breached the right of everyone to the enjoyment of the highest attainable standard of physical and mental health or right to health, set forth in the International Covenant on Economic, Social and Cultural Rights.

### **Correcting some historical anomalies**

The original decision to prohibit cannabis lacked scientific basis and was rooted in colonial prejudice and racism. It disregarded the traditions and rights of communities that have been growing and using cannabis for medicinal, therapeutic, religious and cultural purposes for centuries, and had led to millions being criminalised and incarcerated across the globe.

In 2018, the World Health Organization's Expert Committee on Drug Dependence (ECDD), an independent group of experts with a role to advise on the scheduling of substances based on evaluations of potential for harm, dependence and abuse from a public health perspective, as well as their therapeutic usefulness, started the scientific review of cannabis and its preparation, to correct the historical classification anomaly. Based on the ECDD's scientific opinion, WHO would then make recommendations to the UN Secretary General, and the decision whether to adopt the recommendations would be a subject to a vote by the UN Commission on Narcotic Drugs (CND).

The anomaly was the fact that cannabis up till then never passed the test of a scientific review by WHO experts against the criteria required for inclusion of some psychoactive plants or substances in the UN schedules of controlled drugs. The reason of the review was

also growing polarisation at the UN level between reform-oriented countries, predominantly in Europe and the Americas, calling for modernisation and greater flexibility, and those who defend the punitive, enforcement-led focus of the conventions, including Russia, China and some other Asian countries.

The original decision to prohibit cannabis not only lacked scientific basis, but was rooted in colonial prejudice and racism. It disregarded the rights and traditions of communities that have been growing and using cannabis for medicinal, therapeutic, religious, and cultural purposes for centuries and had led to millions being criminalised and incarcerated across the globe. By resisting more evidence and change, the international drug control system, already long time, run the risk of becoming increasingly isolated and irrelevant.

Cannabis began to attract renewed interest as medicine in the 1970s and 1980s, in particular due to its use by cancer and AIDS patients who reported relief from the effects of chemotherapy and wasting syndrome. In 1996, California became the first USA's state to legalize medical cannabis in defiance of federal law. In 2001, Canada became the first country to adopt a system regulating the medical use of cannabis. The use and acceptance of medical cannabis had continued to evolve, as shown by the growing number of countries permitting use of cannabis for some medical indications. However, international controls still stated that the plant had no accepted medical use, high abuse potential, concerns for dependence and lack of accepted safety for use under medical supervision.

Only in 2018, WHO's ECDD started to carry out reviews of the scientific evidence on cannabis and cannabinoids. Unfortunately much evidence from medical applications of cannabis from ancient records and nineteenth century medical literature was almost forgotten.

Following its first-ever critical review of modern literature on medical cannabis use, in 2019 the ECDD issued a collection of formal recommendations to reschedule cannabis and cannabis-related substances. These recommendations also revealed the problematic past scheduling procedures along with a very questionable rationale for keeping cannabis in the most restricted schedule. The recommendations included some clearly positive points, especially acknowledging the medicinal usefulness of cannabis by removing it from the most strict schedule of the 1961 Single Convention and clarifying that cannabidiol (CBD) was not under international control. This review reinstated cannabis' medicinal legitimacy status. The ECDD officially announced for the first time- what was already known for a long time by many patients and their physicians, that cannabis could be a useful tool in treatment of many complex diseases or rare health problems which lack effective conventional therapeutic options or where the side effects of such treatments outweigh the benefits. However, the recommendations left many important questions unanswered regarding levels of control for thousands of individual cannabis types and different cannabis preparations.

On December 2, 2020, during its reconvened 63rd session, the Commission on Narcotic Drugs voted to withdraw "cannabis and cannabis resin" from Schedule IV of the Single Convention and made a historical decision to remove cannabis and cannabis resins from

the strictest category of the Single Convention. 27 countries voted in favour, 25 against, and one abstained.

The reclassification of cannabis and cannabis resin was meant to remove some international procedural barriers to research and development of cannabis-based medical products. The change in status of cannabis did not affect its non-medical use or promoted legalization, as it remained under strict international control. Cannabis and cannabis resin were classified as having a similar degree of abuse and dependence potential as medicines such as (considerably more dangerous ) morphine and oxycodone which of course is another regulatory mistake.

The plant's international recognition as a medicine was long overdue, but its continued ban by the UN remained a sticking point. The UN's bureaucracy only in part challenged the rigid policies and laws that must be followed to supposedly safeguard the public health and safety of a society. It was only in part a progress since we are still dealing with a horribly outdated international system. The bureaucracy was not addressing the political realities of the growing movement for reform. Also, UN failed to challenge colonial and racial legacy of medicinal cannabis prohibition.

However, UN's recognition of medical benefits of cannabis was a symbolic win for advocates of cannabis policy change who were claiming for a long time that international law was out of date, anomalous and harmful. The UN decision will add to a growing drive in many countries to increase access to cannabis-based medicines, and could also spark more scientific research into the drug's long-known medical properties. It could also act as catalyst for more countries to legalise the plant for medicinal use, which has often led to laws on recreational use being reconsidered.