SUBMISSION ON "A NEW NATIONAL DRUG POLICY FOR NEW ZEALAND: DISCUSSION DOCUMENT"

This submission is from the

National Organisation for the Reform of Marijuana Laws (NORML New Zealand Inc).

We can be contacted at:

Chris Fowlie
(027) 297 6843
chris@norml.org.nz

NORML New Zealand Inc.
PO Box 3307,
Auckland 1140

Executive Summary

1. A complete rethink is needed of all drug control laws and policies. The lack of any willingness to look at first principles, and the missed opportunity to place the NDP in a world context, is especially sad given that NZ is now taking a world-leading initiative with "legal highs".

2. At a time when countries around the world are experimenting with alternative approaches to controlling drugs by implementing policies that reject the failed War on Drugs, this new National Drug Policy seems to be saying "let's have more of the same".

3. NORML endorses the consensus embodied in the *Wellington Declaration*, a consensus on a way forward for New Zealand's national drug policy.

4. Cannabis use should be a health issue, not a crime. There should be safe, legal access to medicinal cannabis. There should be an adults-only regulated and taxable market for cannabis and other low risk drugs. New Zealand's world-leading Psychoactive Substances Act should be widened to include all low risk drugs, including cannabis.

5. New Zealand should investigate and learn from international developments including cannabis law reforms in Colorado, Washington, Uruguay, and the process to review the UN drug control treaties.

6. New Zealand should be extremely concerned to have the world's highest cannabis arrest rate, and the world's highest teenage cannabis use rate – at a cost of over $300 million per year.

7. However New Zealand has a track record of significant social reform, we led the world with needle exhanges, and the Psychoactive Substances Act is perhaps the best drug law in the world. We agree with Associate Minister of Health Peter Dunne's call for evidence-based approach to regulating drugs:

> *"[T]he Psychoactive Substances Act… could well become the model by which narcotic drugs, currently controlled under the Misuse of Drugs Act, are regulated for the future… After all, most experts now concede the so-called "war" on drugs has failed, and new initiatives are required."*[1]

[1] https://norml.org.nz/2013/norml-likes-peter-dunnes-new-thinking/

About NORML

NORML New Zealand was founded in 1979 as a non-profit incorporated society that campaigns for an end to marijuana prohibition. We support the right of all adults to use, possess and grow their own cannabis. We recognise that some commercial market for marijuana will always exist, and we therefore promote ways to best to control that market.

Our aims are to:

- Reform New Zealand's marijuana laws
- Provide neutral, unbiased information about cannabis and its effects
- Engage in political action appropriate to our aims
- Inform people of their rights
- Give advice and support to victims of prohibition

The scope of the Discussion Document

It is commendable that the scope is widely defined as "alcohol and other drugs". We urge that policy be developed with the ultimate aim of treating all psychoactive substance use consistently. This is because it is unjust (as well as ineffective) to prohibit some substances and punish those who use them, while allowing regulated access to other, more dangerous substances. All usage of alcohol and other drugs should be treated as primarily a public health issue (not a crime).

However, it is regrettable that the document discourages any wider debate or input into the ways in which the present drug laws cause harm to individuals, families and the community:

> *"The policy should reflect the way that we now work… We won't be changing the laws on alcohol, tobacco, drugs or medicines as part of this process. This means that legal issues like changes to drug offences and penalties or the banning of tobacco will not be considered as part of this discussion. We can't act on submissions asking us to do these things…"*[2]

A complete rethink is needed of all drug control laws and policies. The lack of any willingness to look at first principles, and the missed opportunity to place the NDP in a world context, is especially sad given that NZ is now taking a world-leading initiative with "legal highs".

On page 2 of the Discussion document is a commitment of the policy developers to talk with organisations representing drug users. This is welcome in principle, but other than NORML and IV drug user groups, few such organisations exist and the law itself is a major barrier to open and honest communication on drug policy - so that policy debate is too often dominated by those enforcing or supporting prohibition, or treatment providers.

Only in a few countries like the Netherlands, Uruguay and Portugal, and some US States where citizens are able to initiate law changes in favour of legalisation, has a broad debate developed and led to significant changes to the prohibitionist model, and with wide levels of public support.

Innovative drug policies are happening worldwide, but will these developments touch the current review?

[2] *Ministry of Health. 2013. A New National Drug Policy for New Zealand: Discussion document. Wellington: Ministry of Health, p1*

Questions from the Discussion Document

What should we call our policy? Is the National Drug Policy still a good name?

Although not particularly important, we suggest the "New Zealand Alcohol and Other Drugs Policy". However what is far more important than the name is that the policy works to reduce overall drug related harm and does not cause more harm than it prevents.

Where should we focus our efforts relating to supply control, demand reduction and problem limitation? Should these efforts be consistent or differ depending on the drug or substance?

Priority for each of the three 'columns' should be given to those drugs that create the most harm to users and those around them: alcohol, tobacco and methamphetamine.

We note from the discussion document[3] that there is relatively little harm associated with cannabis.

Cannabis is by far the most widely used illicit drug in New Zealand and substantial consumption is likely to continue for the foreseeable future. The NDP implies but should more explicitly recognise that use does not necessarily equate to harm. Research shows most cannabis users do so responsibly, in moderation, and have only a low risk of health effects.

For low risk drugs such as cannabis, there should be much less emphasis on law enforcement and punitive sanctions. NORML supports harm minimisation policies that respect human rights and do not lead to blaming the victim, by punishing people not for real crimes but for their choice of recreational drug.

The current approach of a strictly-enforced prohibition rests on the assumption that law-enforcement efforts to reduce the availability of drugs - by increasing prices and decreasing supplies - also have the effect of reducing drug harms.

This is a myth: not only has prohibition been found to be ineffective with regard to both demand and supply, a recent study by the International Centre for Science in Drug Policy (ICSDP)[4] shows how significant a role it plays in the causation of violence. Evidence now suggests that police crackdowns aimed at stopping trade in illegal drugs actually have the opposite effect to that intended:

- The ICSDP review of 20 years research into drug enforcement found that the imprisonment of dealers and criminal bosses actually leads to greater drug-related violence as vacuums in the black market are rapidly filled by competitors eager to fight each other for the newly-vacated territory.
- The ICSDP meta-analysis of 15 separate reports on the relationship between violence and drug enforcement found that 87 per cent of studies reported that police seizures and arrests led directly to increased violence.
- The evidence suggests that any disruption of drug markets through drug-law enforcement has the perverse effect of creating more financial opportunities for organised crime groups.

A recent study published in the *British Medical Journal* found drug law enforcement has no relevant effect on the global illegal drug market:

> *"with few exceptions and despite increasing investments in enforcement-based supply reduction efforts aimed at disrupting global drug supply, illegal drug prices have generally decreased while drug purity has generally increased since 1990.. These findings suggest that*

[3] *Ministry of Health. 2013. A New National Drug Policy for New Zealand: Discussion document. Wellington: Ministry of Health, p3-4*
[4] *Effect of Drug Law Enforcement on Drug-Related Violence: Evidence from a Scientific Review, http://www.icsdp.org/docs/ICSDP-1%20-%20FINAL.pdf*

expanding efforts at controlling the global illegal drug market through law enforcement are failing."[5]

Reliance on policing and prohibition will be no more successful in future than it has in the past, and at an ever increasing cost to the public. NORML urges that resources should instead be put into a thorough and immediate re-evaluation of the effectiveness of present policies and alternative drug-control policies, especially policies involving regulated and controlled access to drugs presently proscribed under the Misuse of Drugs Act, with a view to trailing alternative policies with proven success elsewhere and ultimately the replacement of the Act with a non-prohibitionist alternative.

NORML supports a regulated and controlled market in place of the present criminal marketing of drugs, and notes that the long-standing cannabis policy of the Netherlands has gained support across the political spectrum because it is successful in reducing teenage cannabis use, reducing harmful use, and separating the cannabis market from other drug markets.

NORML calls on government agencies to explore the experience of other jurisdictions – including the Netherlands, Portugal, Uruguay, Colorado and Washington. In particular, we urge consideration to regulating all low-risk substances with the Psychoactive Substances Act 2013 rather than the Misuse of Drugs Act 1975.

Alcohol and other drugs can cause harm to people who don't use them, such as whānau and friends. In what ways could our policy support your community to reduce this harm?

Drug policy is indeed a matter for whole communities, and not simply an issue for drug users. The *Wellington Declaration* recognised harms caused by drug law enforcement, especially of supply control. These harms criminalise the young, the poor and the brown; they affect drug users in particular (alienation, exclusion, suicide etc) but also communities impacted by drug law enforcement activities.

It would be of concern if this review simply assumed that law enforcement, as a priority of Police and Justice workers, was a policy goal, instead of a means to achieve desirable social outcomes based on human rights and justice.

It would also be of concern if this discussion document is flagging an intention to take a failed policy (punishing users and growers as part of "supply control") and attempt to make it a success by recruiting the families and communities in which drug users live, to do what law enforcement has failed to do - enforce prohibition.

Furthermore, if all use of illegal drugs are erroneously defined from the start as harmful to the user, her/his family and community, then it follows that the new NDP could actually become an intensification of the War on Drug Users, in the guise of "preventing and reducing harm among families, communities and society". This would be a serious mistake.

Putting cannabis harms in context

Despite being New Zealand's most popular illicit drug, cannabis use itself causes relatively little harm to consumers or their communities. Successive inquiries and reports have found that most cannabis consumers do so moderately, responsibly, and with little or no health effects.

A recent Australian epidemiological review published in the *Lancet* shows cannabis use is not a significant contributor to the global burden of disease. The burden to society of cannabis users is very

[5] *Werb, et al: The temporal relationship between drug supply indicators: an audit of international government surveillance systems. BMJ Open. 2013; 3(9): e003077 <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3787412/>*

low and overshadowed by the much smaller number of opioid and methamphetamine users, and tobacco and alcohol users.[6]

Reducing harms to drug users

NORML supports measures which aim to reduce drug related harm. The *Wellington Declaration* also called for increased priority to be given to problem limitation efforts.

NORML notes that the biggest barrier against drug users seeking treatment is their fear of the harmful consequences of the law, combined with a shortage of available treatment options due to the financial emphasis placed on law enforcement and supply-control "prevention" efforts. If cannabis were regulated, access to treatment facilities would improve.

Treatment opportunities should be available for all who need them by increasing funding for this sector. Treatment should be evidence based. A wide range of treatment options should be trialled and evaluated. People who develop problems from the use of cannabis should be offered medical help, without fear of arrest or punishment. Those who do not require help should not be forced or coerced to undergo unnecessary treatment.

Health awareness campaigns need to be honest about drugs rather than biased towards drug harms. Non-judgemental treatments may be more effective in reducing harm than, for example, abstinence campaigns.

"Just Say No" approaches may be effective only for those students who had not already tried drugs, and there is no conclusive evidence to show even that outcome. The Health Committee's 1998 report *Mental Health Effects of Cannabis* commented:

> *"For pupils already involved in experimentation, these programmes tended to increase their sense of alienation by labelling them as deviant ... that alienation could increase the likelihood of negative outcomes such as dropping out of school or suicide."*[7]

There is currently almost no publicly-funded advice or information available for those who choose to use drugs. An example of a harm reduction initiative for cannabis users could involve the following information, published on our website[8] and in our magazine *Norml News*:

- people who consume cannabis should do so in moderation. Use of any drug every day is more likely to be harmful than more moderate and occasional use.
- regular cannabis smokers should try to reduce the harmful effects of inhaling cannabis smoke, such as eating or drinking cannabis preparations, and using harm minimisation equipment such as vaporisers and waterpipes. Cannabis paraphernalia designed to minimise the harmful effects of smoking should be legalised.
- people with a history of mental illness should be advised to avoid cannabis or minimise use.
- people who consume cannabis should be advised to avoid driving for several hours. If alcohol and cannabis have been consumed together, this period should be extended.

[6] *Whiteford, Degenhardt et al, "Global burden of disease attributable to illicit drug use and dependence: findings from the Global Burden of Disease Study 2010," The Lancet, Volume 382, Issue 9904, Pages 1575 - 1586, 9 November 2013 < http://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2813%2961611-6/fulltext>*

[7] *Inquiry into the mental health effects of cannabis, Report of the Health Committee. Forty-Fifth Parliament (Brian Neeson, Chairperson), 1998 < http://tinyurl.com/hsc1998>*

[8] *https://norml.org.nz/about/cannabis-harm-reduction/*

It could also involve educating cannabis users about responsible and irresponsible use, which NORML has attempted to do in adopting our "Principles for Responsible Marijuana Use"[9]:

> **Adults Only.**
>
> Cannabis consumption is for adults only. It is irresponsible to provide cannabis to children. Many things and activities are suitable for young people, but others absolutely are not. Children do not drive cars, enter into contracts, or marry, and they must not use drugs. As it is unrealistic to demand lifetime abstinence from cars, contracts and marriage, however, it is unrealistic to expect lifetime abstinence from all intoxicants, including alcohol. Rather, our expectation and hope for young people is that they grow up to be responsible adults. Our obligation to them is to demonstrate what that means.
>
> **No Driving.**
>
> The responsible cannabis consumer does not operate a motor vehicle or other dangerous machinery impaired by cannabis, nor (like other responsible citizens) impaired by any other substance or condition, including some medicines and fatigue. Although cannabis is said by most experts to be safer than alcohol and many prescription drugs with motorists, responsible cannabis consumers never operate motor vehicles in an impaired condition. Public safety demands not only that impaired drivers be taken off the road, but that objective measures of impairment be developed and used, rather than chemical testing.
>
> **Set and Setting.**
>
> The responsible cannabis user will carefully consider his/her set and setting, regulating use accordingly. 'Set' refers to the consumer's values, attitudes, experience and personality, and 'setting' means the consumer's physical and social circumstances. The responsible cannabis consumer will be vigilant as to conditions -- time, place, mood, etc. --and does not hesitate to say 'no' when those conditions are not conducive to a safe, pleasant and/or productive experience.
>
> **Resist Abuse.**
>
> Use of cannabis, to the extent that it impairs health, personal development or achievement, is abuse, to be resisted by responsible cannabis users. Abuse means harm. Some cannabis use is harmful; most is not. That which is harmful should be discouraged; that which is not need not be. Wars have been waged in the name of eradicating "drug abuse", but instead of focusing on abuse, enforcement measures have been diluted by targeting all drug use, whether abusive or not. If marijuana abuse is to be targeted, it is essential that clear standards be developed to identify it.
>
> **Respect Rights of Others**
>
> The responsible cannabis user does not violate the rights of others, observes accepted standards of courtesy and public propriety, and respects the preferences of those who wish to avoid cannabis entirely. No one may violate the rights of others, and no substance use excuses any such violation. Regardless of the legal status of cannabis, responsible users will adhere to emerging tobacco smoking protocols in public and private places.

Harms to others

There is relatively little external harm associated with the consumption of cannabis. The NZ Police's Drug Harm Index shows that most harms relating to cannabis are caused by the law itself.[10] And unlike alcohol, cannabis use is not associated with violence.[11]

[9] *https://norml.org.nz/about/responsible-use/*

We note there is conflicting evidence surrounding the role of cannabis in road crashes. While ESR research points to a relatively high number of NZ drivers killed in accidents testing positive to cannabinoids, we believe this is an artefact of the extraordinary length of time cannabinoids remain in the body and the relatively high rate of cannabis consumption in this country. It is worth noting that US states that legalised medicinal use of cannabis have experienced *lower* rates of road deaths.[12]

Harmful effects of drug law enforcement

Whatever the risks of cannabis use, prohibition makes matters worse in several ways:

- paraphernalia laws prevent the development and marketing of water pipes and other, more advanced technology that could significantly reduce the harmfulness of marijuana smoke;
- prohibition encourages the sale of cannabis that has been contaminated or adulterated by insecticides, Paraquat, etc., or mixed with other drugs such as P, crack, heroin and even fly spray;
- by raising the price of marijuana, prohibition makes it uneconomical to consume marijuana orally, which is the best way to avoid smoke exposure altogether. This is because eating typically requires two or three times as much marijuana as smoking. The inflated price of black-market marijuana also means users take (more harmful) deeper and longer breaths so as to maximise the effect.
- prohibition creates additional harms in the community that are entirely avoidable: for instance illicit growers and dealers sometimes protect their incomes through threats, coercion and violence; there are substantial environmental harms from illicit cultivation and clandestine drug labs; and by creating a mixed market for illicit drugs, prohibition inadvertently increases the use of other illicit drugs.
- by exaggerating harms, prohibition makes drug education efforts less believable. By using threats and coercion to attempt to reduce drug use, prohibition makes drug treatment less accessible.
- prohibition is a racist law, the burden of which is felt disproportionately by Maori who are more likely to be arrested than non-Maori even after adjusting for use rates and other confounders. The effect of this is to divide communities, create disrespect for the law and further alienate users from the rest of society.

A 1999 study released by Curtin University's National Centre for Research into the Prevention of Drug Abuse (NCRPDA) compared the impact of a criminal conviction for a minor cannabis offence in West Australia, with the impacts of a South Australian infringement notice. The study found:

> *"neither a criminal conviction nor an infringement notice had much impact on subsequent cannabis use, with about 90% of each group saying it had not reduced their use of the drug. However, more of the WA group experienced significant social costs as a result of their minor cannabis offence."*

The study found harmful effects of the law included loss of employment, accommodation, relationship problems and subsequent involvement with the police. Compared to the total prohibition model in WA, people in SA were less likely to have been offered Cannabis, less likely to have tried it, less likely to have used in the last twelve months and less likely to use in a vehicle.[13]

---

[10] Russell Brown, "Spectacular but useless", Jun 24, 2008 <http://publicaddress.net/hardnews/spectacular-but-useless/>

[11] See <http://norml.org/news/2014/01/09/study-alcohol-not-cannabis-associated-with-intimate-partner-violence> and <http://archive.saferchoice.org/content/view/24/53/>

[12] D. Mark Anderson, Daniel I. Rees. Medical Marijuana Laws, Traffic Fatalities, and Alcohol Consumption. IZA Discussion Paper, November 2011 < http://www.iza.org/en/webcontent/publications/papers/viewAbstract?dp_id=6112> See also http://healthland.time.com/2011/12/02/why-medical-marijuana-laws-reduce-traffic-deaths/ and < http://www.sciencedaily.com/releases/2011/11/111129123257.htm>

[13] Makkai & McAllister, 1997, pp50-55

What outcomes should the National Drug Policy aim for?

The policy should aim only at reducing harm and the government should review the effectiveness and just-ness of any so-called preventive measures. Any "prevention" goal should be limited, so that the goal is to reduce harms without infringing the right of adults to safely and responsibly use psychoactive substances of their choice.

The original National Drug Policy identified the importance of "upholding individual rights where these do not impinge on the rights of others" and said that "individual choices [will be] respected where the costs of the choices are not borne by others ... this principle would give preference to the strategy which would least interfere with the rights of the individual".

This was unfortunately watered down in the more recent NDP, which failed to mention people's rights and did not respect individual choices.

Attempts by governments around the world to "prevent harms", most notably through prohibitionist policies, have mostly been abject failures which have caused far more harm than good.

The NDP must recognise that laws can and do create harms, and often these outweigh the harms of the drug use itself. This is especially so when - as is the case with cannabis - almost all effort is put into punitive sanctions rather than education or treatment.

NORML believes drug policy and associated laws should:

a) Have realistic goals;
b) Be regularly evaluated, be shown to be effective or be changed;
c) Take account of the different patterns and types of harms caused by specific drugs;
d) Separate arguments about the consequences of drug use from arguments about morals;
e) Be developed in the light of the costs of control as well as the benefits;
f) Ensure that the harms caused by the control regimes themselves do not outweigh the harms prevented by them;
g) Provide the greatest level of harm reduction for drug users, their families and their communities;
h) Minimise the number of drug users who experience problems from their drug use;
i) Be evidence based, as well as having the support of the community.

All the available evidence shows current drug policy does not meet any of these criteria. Indeed, The US drug czar recently admitted to *Associated Press* that after 40 years and us$1 trillion, the supply-control focused Drug War has failed to meet any of its goals:

> *"In the grand scheme, it has not been successful. Forty years later, the concern about drugs and drug problems is, if anything, magnified, intensified."*[14]

New Zealand's Associate Minister of Health Peter Dunne's has also recently admitted prohibitionist policies have failed. NORML supports his call for an evidence-based approach to regulating drugs:

> *"[T]he Psychoactive Substances Act... could well become the model by which narcotic drugs, currently controlled under the Misuse of Drugs Act, are regulated for the future. The yardstick of level of risk – based on sound pharmacological and toxicological evidence – would become the determinant of availability, not public sentiment or prejudice.... the regulatory regime introduced for psychoactive substances could well have wider application and that we should not be averse to that possibility. After all, most experts now concede the so-called "war" on drugs has failed, and new initiatives are required."* [15]

NORML is committed to reducing harms from drug use. NORML submits that current measures

---

[14] *Associated Press, 13 May 2010: After 40 years, $1 trillion, US War on Drugs has failed to meet any of its goals, available at http://www.foxnews.com/world/2010/05/13/ap-impact-years-trillion-war-drugs-failed-meet-goals*

[15] https://norml.org.nz/2013/norml-likes-peter-dunnes-new-thinking/

ostensibly taken to "prevent" harms related to drug use are in reality designed to reduce use, whether harmful, non-harmful or even beneficial. Such an approach is inherently unjust (being an attack on those who use drugs responsibly) and risks inflicting greater harms on those punished by the preventive measures than would be caused by the drugs themselves.

What issues should our first action plans try to tackle?

We suggest that the most pressing issues are:

1. Reducing the harms from drug law enforcement;
2. Ensuring all drug laws, policies and interventions are evidence based and do not cause more harm than they prevent;
3. Investigating alternative approaches adopted by other countries and jurisdictions;
4. Planning for New Zealand to take a significant role in reshaping UN drug treaties over the next 2-3 years;
5. Ensuring the Psychoactive Substances Act and Regulations are a success.

Should the policy contain performance targets?

Yes. Performance targets should be based on reducing harm both from drug use and drug interventions including law enforcement.

The current policy, with its emphasis on supply control through the Misuse of Drugs Act 1975, pays only lip-service to the concept of harm minimisation.

With no specific goal of reducing harm to drug users and their communities, the current law has managed to *maximise* harm in several ways:

- The creation of an uncontrolled, lucrative and often violent black market, that reaches into every pocket of New Zealand society.
- Minors can access cannabis and other drugs as easily as pizza; tinny shops are in most suburbs and towns and sell to anyone, at any time, with no ID checks.
- Drugs sold through the black market are sometimes of dubious quality, purity or safety; occasionally black market drugs are laced with toxins (chemicals, sprays, etc). Every summer the police deliberately poison marijuana supplies with Round-Up, some of which still makes it to the market.
- The black market gives casual soft drug users (i.e. cannabis smokers) the chance of being introduced to more dangerous drugs like 'P'. Tinny shops mostly cater to teenagers or casual users and have been used by gangs to introduce meth to new customers. The 2001-2 Health Select Committee cannabis inquiry noted:

  > *"Prohibition makes targeting education, prevention, harm minimisation and treatment measures difficult because users fear prosecution. It also facilitates the black market, and potentially exposes cannabis users to harder drugs"* [16]

- Due to our high rate of arrest and the threat of imprisonment, those with drug use problems are reluctant to seek help.
- Public resources diverted away from effective treatment and education, to fund law enforcement. Treatment facilities for people wanting help are often not available or are under-resourced.
- New Zealand has the world's highest rate of arrest for marijuana offences. Our police arrest more people per head of population than even the United States. Police time is diverted away from serious crimes (assaults, burglaries, etc) because it is spent on criminalising drug users or 'social suppliers' of drugs.

[16] *New Zealand Parliamentary Health Select Committee, 2003: "Inquiry into the public health strategies related to cannabis use and the most appropriate legal status", page 57. Available at http://tinyurl.com/277l4jk*

What things to do you think we should measure to see if things are working?

Rates of use do not necessarily measure harm. We need better indicators of harm both to users and those around them. The police-developed Drug Harm Index is not fit for the purpose, as it mostly comprises costs of law enforcement rather than actual drug harms. It is misleading and used by Police to bolster support for their failed efforts.

NORML believes that the National Drug Policy should be properly resourced with its own budget. One of the problems with the current approach is that the National Drug Policy itself has no funding or budget. Resources are channelled through various departments and agencies, who interpret the policy in their own way and more or less continue with their own strategies and plans using their interpretation to support what they are doing. This is, obviously, not good enough.

How will we know if we are allocating the right balance of resources to each of the areas of supply control, demand reduction and problem limitation/treatment? What should we be looking for?

Announcements by the government that the current approach is "balanced" between three equally important areas of supply control, demand reduction and problem limitation are simply propaganda. The emphasis on supply controlled has spectacularly failed, all the evidence shows demand has no correlation with drug laws, and problem limitation services are drastically underfunded.

Drug legislation and associated laws should be better aligned with a true policy of harm minimization that includes respect for human diversity and fundamental human rights.

Individuals have a basic right to alter their consciousness, either by using drugs, meditating, fasting, finding religion, watching television, long-distance running, or by any other means that respect others' rights. Drug use should not be discriminated against as being bad, wrong, or immoral, any more than driving a car or skiing should be; all these activities have inherent risks.

Government involvement should be limited to regulating supply (eg sales to minors; advertising; safety standards) and facilitating treatment or drug education for people experiencing problems caused by over-use or addiction.

Policies should avoid criminalizing non-problematic drug use. In particular, the responsible possession or use of drugs by adults should not result in any penalties, and the goal of preventing or reducing harm should not infringe the right of adults to safely and responsibly use psychoactive substances of their choice.

What would you like to know about how well the different approaches taken under the policy are working?

A cost-benefit analysis of all approaches would be most useful and informative, but despite spending over $300million every year on cannabis law enforcement alone, this has never been done. Cost-benefit analyses should be immediately conducted as a matter of top priority.

All programs and efforts should be assessed, with funding moved away from counterproductive actions and given to those efforts that are shown to be successful in reducing drug related harm.

Can you think of instances whereby supply control, demand reduction or problem limitation interventions have been inconsistently applied across New Zealand?

NORML has run a help line for people facing cannabis charges, since about 1990. In that time we have received literally thousands of calls. It is our experience from listening to these people that it is routine for police to misuse their powers when enforcing drug laws.

It is very common for callers to our help line to complain of police misusing their so-called "emergency" search powers conferred by section 18 of the Misuse of Drugs Act.

When the Misuse of Drugs Act was passed in 1975, assurances were made in Parliament and by police that this special power – which now breaches the Bill of Rights – would only be used in emergency situations and only for large-scale traffickers.

Instead, as the Health Select Committee noted in 2003, these "emergency" powers are routinely abused by Police on a regular basis:

> *"This was intended by Parliament to be used primarily for serious trafficking and supply offences, not for personal possession charges... Today these powers are used as part of routine activities or street patrols... The Police Association president admitted that the police have targeted people on the basis of their dress."*[17]

The Health Select Committee's cannabis inquiry also heard evidence that Police Diversion scheme – intended to reduce the harm caused by the criminal justice system – is applied unevenly. In some areas it is almost impossible to get. [18]

If you do think there has been an inconsistent application of alcohol and other drug policy in New Zealand, do you think it has influenced the amount of harm that users or the people around them have suffered?

Yes. The harms created by cannabis prohibition are significant and include:

a) lack of any control over juvenile use;
b) combination of markets for cannabis with other more dangerous illicit drugs;
c) high social costs to apprehended cannabis users without any evidence of reduced cannabis use;
d) high economic cost to the taxpayer;
e) a lucrative income for criminals and the risk of increased police corruption.
f) increased crime (theft, home invasions, murder) in the community
g) disrespect for the law and its enforcers when the law is unjust, and
h) damage to careers and families arising from convictions or the fear of convictions.

Our experience with cannabis law enforcement is that police often operate based on stereotypes. People who fit the description tend to be searched and prosecuted, while middle-class pakeha seldom come to their attention. Maori, Pacific Islanders and young males bear the brunt of searches, arrests, prosecutions, convictions and sentences, irrespective of their rates of use.

In 2001, Maori made up 14.5 percent of the population, and use cannabis at only slightly higher rates than non-Maori, but received 43 percent of convictions of cannabis use and 55 percent of convictions for cannabis dealing.[19] As the Health Select Committee noted:

---

[17] New Zealand Parliamentary Health Select Committee, 2003: "Inquiry into the public health strategies related to cannabis use and the most appropriate legal status", page 35. Available at http://tinyurl.com/277l4jk
[18] Ibid, p61-2
[19] New Zealand Parliamentary Health Select Committee, 2003: "Inquiry into the public health strategies related to cannabis use and the most appropriate legal status", page 28. Available at http://tinyurl.com/277l4jk

"The 21-year CHDS found that the administration of current cannabis laws is inefficient … It is also discriminatory against males, Māori, and former offenders, and is ineffective in deterring users from cannabis use. Ninety-five percent of the cohort arrested or convicted for cannabis use continued with or increased their use of cannabis."[20]

In what circumstances should local bodies be able to decide how the National Drug Policy is implemented in their district?

While there is some merit in allowing tailored efforts in local areas, NORML holds serious concerns about allowing local body politicians and 'wannabes' the opportunity to grandstand on drug issues, given the local-body hysteria we have seen over Psychoactive Substances and Local Alcohol Plans.

For which issues or approaches should the National Drug Policy be consistent across the country?

There should be a consistent emphasis on those drugs that cause the most harm: alcohol, tobacco, prescription medicines and methamphetamine.

There must also be a consistent emphasis on evidence-based approaches; they may differ depending on the area, but all should have solid research supporting the effectiveness of the approach.

Are there any particular substances or classes of drugs that you think will be a concern in the future?

Cannabis is the most widely used illegal substance. The laws governing its use and sale are the most in need of reform. Cannabis should be treated as a health issue, not a crime.

Of all the harmful effects of the current prohibition, perhaps none are as tragic as denying such a valuable medicine to sick and dying people. There needs to be safe legal access to medicinal cannabis products including the natural, unprocessed plant.

Are there any society-wide trends and pressures that you think will be a concern in the future?

It is inevitable that cannabis laws will change here, just as they are changing throughout the world. We cannot afford to spend $300 million each year attempting to arrest our way to a "drug free" world. All the available evidence shows the current policy based on prohibition – despite the rhetoric of 3 balanced pillars, the reality is almost all the emphasis is on supply control – has failed spectacularly.

The international trend is towards alternative – and more effective – approaches to reducing the harm associated with drug abuse.

The following article from the *Associated Press*[21] shows marijuana legalisation experiments underway in Washington state, Colorado and Uruguay have prompted or accelerated discussion about changing

---

[20] New Zealand Parliamentary Health Select Committee, 2003: "Inquiry into the public health strategies related to cannabis use and the most appropriate legal status", p32. Available at http://tinyurl.com/277l4jk
[21] Countries rethink pot laws in wake of US, Uruguay, AP foreign, Saturday February 15 2014 < http://www.theguardian.com/world/feedarticle/11201915>

pot laws in many nations, and momentum is building in advance of a special United Nations convention on drugs scheduled for 2016. Examples of how some countries are rethinking their approach to cannabis include:

ARGENTINA
Personal possession of controlled substances has been decriminalized, thanks to a Supreme Court ruling in 2009 that found imposing jail time for small amounts of drugs was a violation of Argentina's constitution, which protects private actions that don't harm others. Lawmakers have been working to amend the law since then, with proposals ranging from simple decriminalization in accordance with the ruling to a complete overhaul of the country's drug laws. In December, Father Juan Carlos Molina, a Catholic priest newly appointed as the nation's drug czar, said Argentina deserves a debate about whether to follow Uruguay in regulating marijuana.

BRAZIL
Brazil doesn't punish personal drug use, but trafficking or transporting small amounts of controlled substances is a criminal offense, punishable by drug abuse education or community service. Some advocates worry the law isn't clear about how much constitutes personal possession, and that can leave it up to a judge's discretion about whether someone should be punished. In November, former Brazilian President Fernando Henrique Cardoso joined former U.N. Secretary General Kofi Annan in calling for the decriminalization of all drugs and allowing countries to experiment with drug regulation.

GUATEMALA
President Otto Perez Molina of Guatemala, a hard-hit cocaine transit country, took the floor at the U.N. last fall to join a growing chorus of nations calling the drug war a failed strategy. He announced that his country would study different approaches and praised the "visionary" experiments in Washington and Colorado â as well as U.S. President Barack Obama's decision to let them go forward. Currently, prison terms of four months to two years can be imposed for the possession of drugs for personal use.

JAMAICA
The island nation is a primary source of marijuana in the Caribbean. Possession remains illegal and can result in mandated treatment or rehabilitation, though usually the defendant pays a small fine and is not incarcerated. Nevertheless, many young men wind up with criminal records that affect their future employment options, and recent changes in the U.S. and Uruguay have given momentum to activists who hope to see marijuana decriminalization approved soon.

MEXICO
In Mexico, where tens of thousands have been killed in drug war violence in the past seven years, there is no general push to legalize or regulate marijuana for recreational use. But in more liberal Mexico City, a metropolis of 8 million, lawmakers have introduced a measure to allow stores to sell up to 5 grams of pot. The plan has the mayor's support but could set up a fight with the federal government. Small amounts of marijuana and other drugs have been decriminalized in Mexico since 2009.

MOROCCO
Morocco is one of the world's leading hashish producers, and nearly all of it makes its way into Europe. Cannabis was legal to grow as late as the 1950s by order of the king. Two leading political parties want to re-legalize its cultivation for medical and industrial uses, with the goal of helping small farmers who survive on the crop but live at the mercy of drug lords and police attempts to eradicate it. There is little chance the conservative nation will legalize it for recreational use any time soon.

NETHERLANDS
The Netherlands has long had some of the most liberal cannabis laws. Hoping to keep pot users away from dealers of harder drugs, the country in the late 1970s began allowing "coffee shops" to sell marijuana, which remains technically illegal. Since 2012 the federal government has clamped down, briefly requiring people to obtain a "weed pass" to buy cannabis and banning sales to

tourists. Some cities, including Amsterdam, have declined to ban sales to tourists, however, and mayors of 35 cities have banded together to call for the legalization of marijuana growing.

UNITED STATES
Long the drug war crusader, the U.S. was the driving force behind the 1961 treaty that formed the basis of international narcotics control. For decades the U.S. has required other nations to cooperate in the drug war or risk losing foreign aid, even as some Latin American countries ravaged by drug war violence criticized America for failing to curb its appetite for cocaine, marijuana and other substances. Since 1996, nearly half the states have allowed medical use of marijuana despite federal laws banning it, and some states are considering following the lead of Washington state and Colorado in legalizing recreational use.

URUGUAY
In December, Uruguay became the first nation to approve marijuana legalization and regulation. President Jose Mujica said his goal is to drive drug traffickers out of the dope business and reduce consumption by creating a safe, legal and transparent environment in which the state closely monitors every aspect of marijuana use. By April, Uruguay is expected to have written the fine print on its regulations. Once registered and licensed, any Uruguayan adult will be allowed to choose one of three options: grow plants at home, or join a pot-growing club, or buy marijuana cigarettes from pharmacies.

Are we doing the right things to prepare for and respond to these concerns?

New Zealand should be ashamed at having the world's highest cannabis arrest rate, and concerned that after almost 100 years of criminal sanctions we now also have the world's highest teenage cannabis use rate.

However New Zealand can be justifiably proud of the Psychoactive Substances Act (PSA), a world-leading evidence-based approach to controlling the availability of low-risk substances which emphasizes the health and safety of consumers. However it is anomalous that the PSA arbitrarily includes only some low risk substances. It should cover all low-risk substances, including those currently scheduled in the Misuse of Drugs Act, and especially cannabis.

New Zealand should be preparing for, and working towards, significant reform of the UN drug control treaties. These are under review from this year though to 2016. New Zealand should lead the efforts to reform these counter-productive, costly and draconian treaties.

How many years should the next National Drug Policy be in effect for?

We believe a new National Drug Policy should be developed within the 2014-16 timetable for reforms of the UN drug control treaties. These treaties block the significant reforms that are needed to domestic drug policies of member countries including New Zealand. Adequate time is needed to research international developments as part of developing a new policy document; after its implementation there should be ongoing evaluation and a comprehensive assessment of the new policy after no less than 5 years.

Conclusion

The 1972-3 Blake-Palmer Report that led to the introduction of the Misuse of Drugs Act 1975 recommended "continuance of a prohibition policy so long as this can be shown to be largely effective."[28] It is clear that the prohibition policy has *not* been effective.

The 1998 Health Select Committee Inquiry into the Mental Health Effects of Cannabis unanimously recommended "the Government review the appropriateness of existing policy on cannabis and its use and reconsider the legal status of cannabis".[29]

The Health Select Committee's investigated the current policy in 2001-3 and concluded that:

> *"the current high levels of use, and the level of black economy activity indicate that the current prohibition regime is not effective in limiting cannabis use. Prohibition results in high conviction rates for a relatively minor offence, which inhibits people's education, travel and employment opportunities. Prohibition makes targeting education, prevention, harm minimisation and treatment measures difficult because users fear prosecution. It also facilitates the black market, and potentially exposes cannabis users to harder drugs."*[30]

Every other government-level inquiry into cannabis around the world has recommended policies other than total prohibition.[31]

Far from being "balanced", current policy places almost all emphasis on law enforcement. Tens of millions of dollars are spent arresting and punishing cannabis users, but comparatively few resources are put into drug education and treatment services.

We need more compassionate drug policies that help people rather than punish them. An enlightened society does not punish dissent or different lifestyles - it should celebrate diversity. It would be unthinkable to have laws criminalising other minority groups.

A complete rethink is needed of all drug control laws and policies. New Zealand's drug policy should be informed by the experience of others.

The operation of New Zealand's Psychoactive Substances Act 2013 should be compared with the operation of cannabis market regulation in Uruguay, The Netherlands and the US states of Washington and Colorado, especially if as a country we want to build on the PSA's regulatory model.

For an in-depth detailed examination of how exactly how to regulate cannabis, we urge policy makers study the new guidebook, *How to Regulate Cannabis: A Practical Guide*, from the UK's Transform Drug Policy Foundation[32]. We especially draw your attention to section 2: *The practical detail of regulation*, and section 3(e) *Cannabis and the UN drug conventions*.

The prohibition of cannabis hasn't prevented people from using it. A World Health Organization study established that countries with get-tough policies, notably the U.S. and New Zealand, now lead the rest of the world in rates of cannabis use. The 2008 report found:

> *"Globally, drug use is not distributed evenly, and is simply not related to drug policy ... The U.S. ... stands out with higher levels of use of alcohol, cocaine, and cannabis, despite punitive illegal drug policies. ... The Netherlands, with a less criminally punitive approach to cannabis use than the U.S., has experienced lower levels of use, particularly among younger*

---

[28] Drug Dependency and Drug Abuse in New Zealand (Second Report): NZ Board of Health report series No 18, Wellington, 1973, p89.

[29] Inquiry into the mental health effects of cannabis. Report of the Health Committee, Forty-Fifth Parliament (Brian Neeson, Chairperson), 1998. Summary of recommendations.

[30] New Zealand Parliamentary Health Select Committee, 2003: "Inquiry into the public health strategies related to cannabis use and the most appropriate legal status", p57. Available at http://tinyurl.com/277l4jk

[31] http://norml.org/marijuana/personal/item/government-private-commissions-supporting-marijuana-law-reform

[32] How to Regulate Cannabis: A Practical Guide, Transform Drug Policy Foundation, 2013 <www.tdpf.org.uk>

adults. Clearly, by itself, a punitive policy towards possession and use accounts for limited variation in national rates of illegal drug use."[33]

Analyses of US states that have legalised medicinal cannabis have found a *reduction* in teenage cannabis use there, rather than the increase predicted by advocates of harsh criminal sanctions.[34]

It is clear that moving away from cannabis prohibition in much of Europe, Australia and the United States has not caused increases in cannabis use, but has achieved dramatic savings in law enforcement as well as improving the effectiveness of drug education and treatment services.

For example, Dutch coffeeshops have successfully separated cannabis smokers from suppliers of hard drugs, and by enforcing a legal age limit of 18 years to buy cannabis, access by minors is made more difficult: only 7% of Dutch teens under 16 have tried marijuana, compared with 27% here.[35]

A dilemma exists for those advocating more of the same policy. Cannabis usage rates do not correlate well with intensity of enforcement or legal sanction. The evidence shows "liberal" models of controlling drug use don't increase rates of experimentation, whilst repressive models don't deter or prevent use - but they do create all sorts of other harms.

The minimisation of drug-related harms is best achieved through regulations, education and treatment, while an emphasis on punitive sanctions will continue to increase harms to drug users, their families and communities.

Appendices

These attached documents should be considered part of our submission:

- *How to Regulate Cannabis: A Practical Guide*, Transform Drug Policy Foundation, 2013 <http://www.tdpf.org.uk/resources/publications/how-regulate-cannabis-practical-guide>
- *Reshaping New Zealand's Alcohol and other Drug Policy: Declaration from Wellington national drug policy summit*, 27-28 August 2013 < http://www.drugfoundation.org.nz/wellington-declaration>

Yours sincerely,

Chris Fowlie
on behalf of the Board of Directors

National Organisation for the Reform of Marijuana Laws, New Zealand Inc.
PO Box 3307
Shortland St
Auckland 1015
New Zealand

---

[33] Degenhardt et al. 2008. Toward a global view of alcohol, tobacco, cannabis, and cocaine use: findings from the WHO world mental health surveys. PLOS Medicine 5: 1053-1067, online at < http://www.plosmedicine.org/article/info:doi/10.1371/journal.pmed.0050141>.
[34] See Earleywine et al. 2005/2008. Marijuana Use by Young People: The Impact of State Medical Marijuana Laws. Marijuana Policy Project: Washington, DC; and Gorman et al. 2007. Do medical cannabis laws encourage cannabis use? International Journal of Drug Policy 18: 160-167.
[35] Degenhardt et al. 2008