

HOW BEST TO PROTECT AND PROMOTE THE PUBLIC HEALTH IN JURISDICTIONS OPTING TO LEGALIZE RECREATIONAL CANNABIS

Project Concept
February 2, 2015

O'Neill Institute for National & Global Health Law at Georgetown University
WOLA (Washington Office on Latin America)

Background

Several U.S. states have already opted—via ballot initiatives—to legalize and regulate cannabis for adult recreational use. Although recreational cannabis is still banned by U.S. federal law, the Obama administration has chosen to accommodate state-level legalization. More states, including California, are likely to vote on legalization ballot initiatives in 2016, while other states, such as Vermont, are studying the prospect of legalization. It remains to be seen how the next U.S. administration will respond to state-level legalization. But current trends suggest at least a continued accommodation and, possibly, a fundamental revision of federal law that will replace cannabis prohibition with a framework for legalization and regulation.

Meanwhile, Uruguay has become the first country in modern times to legalize cannabis under national law, and other governments will be watching Uruguay closely as they contemplate whether regulation would be appropriate and feasible in their countries. Uruguay's new law and U.S. federal accommodation of the state-level regimes evidently contravene international drug treaty provisions that forbid recreational cannabis. But the treaties provide no means to stop states or national governments from pursuing these reforms, and more such initiatives are expected.

Whether or not one agrees with cannabis legalization, it is already a fact in several jurisdictions and is likely to spread. Accordingly, it is important for policymakers and the public to ensure that the new regulatory systems are designed and implemented, consistently with their other purposes, in ways that will best protect and promote public health. In that regard, it is especially important that new ballot questions and legislation avoid elements that will unnecessarily create health harms and risks and likely be harder to fix after they are in place. Indeed, stakeholders working on existing legalization efforts generally understand that robust public health protections will be central to realizing the full potential of cannabis legalization and avoiding undesired impacts that could produce a negative backlash.

However, the public health community, and especially the public health establishment, has thus far largely stayed out of the discussion over how best to go about cannabis legalization. Some members of the public health community see cannabis legalization as primarily a criminal justice matter, and others are uncomfortable with the issue or not sure how they might get involved.

At the same time, the public health community has considerable experience and expertise (e.g., from tobacco and alcohol control efforts) that should be quite applicable to the challenge of designing and

implementing cannabis legalization in ways that best protect the public health. Cannabis (and the ways in which it is used) certainly differs in many respects from tobacco and alcohol, and the nascent legal cannabis industry is as yet quite small by comparison to the tobacco and alcohol industries. But without losing sight of the important differences, it makes good sense to assess what lessons from tobacco and alcohol control—both positive and negative—should be taken into account when designing regulations for legal cannabis. Indeed, given that legal cannabis is in its infancy, now is the opportune moment to establish the rules and guidelines to ensure that its development is as consistent as possible with public health goals. Moreover, it may be quite important to coordinate cannabis legalization decisions with ongoing alcohol and tobacco control efforts and other public health efforts. For example, Uruguay, the only country to legalize cannabis so far, has also enacted strict, cutting-edge tobacco control laws, and represents a rich opportunity for learning about the impacts of aggressive tobacco control, a government-regulated cannabis market, and the interplay between the two.

Project Overview

The O’Neill Institute for National & Global Health Law and WOLA propose to launch a project that will inform deliberations over the design and implementation of legal cannabis with guidance from recognized experts in the field of public health, both in the United States and abroad. Drawing on the experiences and lessons learned from efforts to regulate legal substances such as tobacco, alcohol, food, and over-the-counter medications, the O’Neill-WOLA project will not only provide useful information and analysis to those developing legalization ballot questions or state legislation, but will also work to engage the public health community as constructive players in the debate on how best to undertake cannabis legalization.

The primary initial goals of this project will be to:

- 1) Identify the most significant public health issues related to cannabis legalization.
- 2) Develop guidelines for how regulations could be structured to minimize public health risks and harms—and maximize public health benefits—without significantly impeding the other goals that legalization and regulation aim to achieve.
- 3) Pave the way for constructive engagement of the public health community in the debate over how to best promote public health goals in the context of legalized, regulated cannabis.

Each partner organization brings unique attributes to the project. The O’Neill Institute’s stature and expertise in the field of public health law translate into credibility—both for convening experts and for conveying recommendations to key stakeholders. From its base at Georgetown University’s law school, the Institute works with a wide range of scholars, practitioners, activists, and governments around the world, and also enjoys a prestigious reputation in Washington. In addition, the Institute’s focus on how to structure laws to promote and protect the public health is a direct fit with the challenges currently facing cannabis legalization. The O’Neill Institute does not take an institutional position for or against cannabis legalization in general. But since jurisdictions are already opting to legalize or are contemplating the possibility, the O’Neill Institute aims to provide guidance on the choice of which regulatory strategies would be better, and which would be worse, at protecting public health.

WOLA's long history and recognized expertise in the field of drug policy reform can bring a wealth of additional relevant contacts in academia, civil society, and government to this project. For over two decades, WOLA's experts have been at the forefront of promoting drug laws that are more respectful of human rights and public health. As a trusted convener, WOLA has brought new research and participants into the public discussion on drug law reform, including preeminent think tanks. WOLA's original research has provided new insights and analysis for policymakers across the hemisphere. As both a research and advocacy organization, WOLA is uniquely positioned to forge connections between cannabis policy reformers and experts in Latin America, Europe, and the United States.

The O'Neill-WOLA partnership would help put the issue of legal cannabis on the map of the wider public health community in a constructive and forward-looking way. This partnership has the potential to offer on-going new guidance, networking, and analysis in support of public health strategies in the context of legalized cannabis, drawing on experience, research, and experts in the United States and abroad.