Commentary

New Zealand’s failed cannabis legalization referendum – implications for cannabis policy reform

Benedikt Fischer\textsuperscript{a,b,c}, Wayne Hall\textsuperscript{d,e}

\textsuperscript{a}Schools of Population Health and Pharmacy, Faculty of Medical and Health Sciences, University of Auckland, Auckland, New Zealand
\textsuperscript{b}Centre for Applied Research in Addiction and Mental Health, Faculty of Health Sciences, Simon Fraser University, Vancouver, Canada
\textsuperscript{c}Department of Psychiatry, Federal University of Sao Paulo, Sao Paulo, Brazil
\textsuperscript{d}Centre for Youth Substance Abuse, Faculty of Health and Behavioural Sciences, Queensland University, Australia
\textsuperscript{e}Queensland Alliance for Environmental Health Sciences, Queensland University, Australia

**A R T I C L E I N F O**

Article history:
Received 10 November 2020
Revised 10 December 2020
Accepted 11 December 2020
Available online 29 January 2021

**K e y w o r d s:**
Cannabis
Legalization
Policy
Reform
Public opinion
Public health
Referendum

**A B S T R A C T**

None required.

© 2020 The Author(s). Published by Elsevier Ltd. This is an open access article under the CC BY-NC-ND license (http://creativecommons.org/licenses/by-nc-nd/4.0/)

On 17 October 2020, 50.7% of New Zealand’s voters – or a majority of 67,662 votes – decided against the proposal of legalizing and regulating non-medical (‘recreational’) cannabis use and supply in a public referendum held during the recent general election [1]. The legalization policy proposal would have mandated the government to enact the ‘Cannabis Legalisation & Regulation Bill’, initially tabled in late 2019 [2]. The draft law proposed to legalize commercial yet regulated cannabis production and distribution, as well as home-growing, while limiting product availability and legal use of cannabis for persons 20 years and older. On the same occasion, New Zealand voters approved the legalization of physician-assisted dying by a two-third majority (65.1%).

New Zealand’s current cannabis control approach is prohibition-based. Law enforcement has the discretion to make ‘no-charge’ where a health-based approach is more beneficial but this is not commonly exercised. A majority vote to legalize cannabis would have made New Zealand the first jurisdiction outside the Americas to legalize non-medical cannabis by law, after Uruguay, Canada and multiple US states [3]. Polls leading up to the referendum had suggested public opinion was divided for some time; the result means that cannabis legalization is unlikely to happen in New Zealand for the foreseeable future. The process and outcomes of these events have implications for cannabis policy reform more broadly.

New Zealand was not the first jurisdiction to attempt to legalize non-medical cannabis use by public referendum. ‘Public ballots’ have been recently successful in multiple US states (beginning with Colorado in 2012). However, a similar referendum in Switzerland to legalize non-medical cannabis by public referendum in 2008 was rejected by 63% of voters [4]. In contrast, Uruguay (2012) and Canada (2018) legislated to legalize non-medical cannabis use and supply as a result of policy reform initiatives of their respective governments [3]. Prior to legalization, only 35–40% of the Canadian population supported it but support has doubled two years after its implementation to about 70% [3]. In Uruguay, legalization also initially lacked majority public support. Support has increased since legalization but a majority of the population remain opposed to the policy [3,5].

There are broader lessons for cannabis policy reform in these outcomes. While advocates of legalization frame it as a public health and safety-oriented policy, for many opponents legalization remains an issue morality. Policy discourses and debates popularly revolve around pleasure, health harms, risks to young people, and especially mental health (e.g., psychosis) [6]. These perspectives
and issues are conceptually similar, and useful for comparison, to those raised in response to proposals to legalize and regulate commercial sex work that have been tabled – while commonly unsuccessful – in some places [7].

Public attitudes on these issues of morality continue to divide opinion in liberal Western societies [8]. These, by contrast, crucially differ from initiatives to legalize ‘medically-assisted dying’ or to allow ‘medical cannabis use’ which are predominantly viewed as compassionate or care-oriented responses to (suffering) others, and therefore attract much greater acceptance and support across different socio-ideological perspectives [9]. The contentious matter of cannabis legalization has been framed somewhat differently in the US to fit with socio-cultural norms that favour and put stronger emphasis on individual and commercial freedoms towards related social attitudes and support.

The key implications for cannabis policy – and especially legalization – reforms are that public opinion in many liberal democracies remains staunchly divided about their legitimacy and need. This overall division is likely deepened by the mixed and inconclusive evidence on the health and social outcomes of legalization initiatives to date [10]. Proponents of non-medical cannabis legalization in jurisdictions where there is interest for such reforms should understand that these initiatives are unlikely to receive popular majority support, for example if put to a referendum, without adequate public deliberation and preparation of the general, and especially the voting public before implementation. Governments and lawmakers, rather, will need to develop and move forward reform initiatives in their respective political systems and demonstrate leadership and courage in persuading their citizens that cannabis legalization is a desirable and valid policy direction. This constellation is no different for other controversial policy matters that politicians commonly initiate or decide on even against strongly opposing popular sentiments. As the Canadian case shows, minority public support for cannabis legalization can transition to and become majority support if the policy is perceived to be successfully implemented with few adverse outcomes for society-at-large [3]. This perspective is further reinforced by New Zealand’s past experience in legalizing commercial sex work on the basis of a controversial parliamentary vote (even if won by just one vote) in 2003 [7].

Declaration of Competing Interest

Prof. Fischer acknowledges support from the Hugh Green Foundation Chair in Addiction Research, Faculty of Medical & Health Sciences, University of Auckland; he furthermore reports grants and contract funding on cannabis-related topics from public only (e.g., public funding, government) agencies.

Acknowledgements

Authors’ contributions: Professor Fischer developed the concept for, and led the writing of the paper. Professor Hall provided substantial intellectual content towards drafts and contributed to several iterative revisions of the paper; both authors approve the final version of the paper submitted.

Role of funding source

The funding sources had no involvement in the manuscript development.

Ethics committee approval

Not applicable.

References

[1] Radio New Zealand. ‘No’ vote for cannabis legalisation shrinks to 50.7 percent after final votes [cited 06 November 2020]. Available from: https://www.rnz.co.nz/news/national/430007/no-vote-for-cannabis-legalisation-shrinks-to-50-point-7-percent-after-final-votes.
[2] Fischer B, Daldegan-Bueno D. New Zealand’s ‘cannabis legalisation and regulation bill’: an evidence-based assessment and critique of essential regulatory components towards policy outcomes. New Zealand Med. J. 2020;133(1519):103–11.
[3] Decorte T, Lenton S, Wilkins C. Legalizing cannabis: experiences, lessons and scenarios. New York (NY): Routledge; 2020.
[4] Zobel F. Cannabis regulation in Europe: country report Switzerland. Transnational Institute; 2019.
[5] Cruz JM, Bodi MF, Queirolo R. The status of support for cannabis regulation in Uruguay 4 years after reform: evidence from public opinion surveys. Drug Alcohol Rev. 2018;37(5):5429–5534.
[6] Leyton M. Cannabis legalization: did we make a mistake? Update 2019. J. Psychiatry Neurosci. 2019;44(5):291–3.
[7] Sanders T, O’Neill M, Pitcher J. Prostitution: sex work, policy & politics. Sage Publications; 2009.
[8] Adam C, Kull C, Budde ET. How morality politics determine morality policy output – partisan effects on morality policy change. J. Eur. Public Policy 2020;27(7):1015–33.
[9] Emanuel EJ, Omwuetaaka-Philipsen BD, Urwin JW, Cohen J. Attitudes and practices of euthanasia and physician-assisted suicide in the United States, Canada, and Europe. JAMA 2016;316(17):79–90.
[10] Hall W, Stjepanovic D, Caulkins J, Lynskey M, Leung J, Campbell G, et al. Public health implications of legalising the production and sale of cannabis for medicinal and recreational use. The Lancet. 2019;394(10208):1580–90.