

Legalising Cannabis Bill 2023

Submission to the Senate Standing Committee on Legal
and Constitutional Affairs

2 November 2023

Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal of the Eora Nation.

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to have input into the Standing Committee on Legal and Constitutional Affairs inquiry into the *Legalising Cannabis Bill 2023* ('the Bill').
2. The ALA welcomes the introducing on the Bill which permits the adult recreational use of cannabis across the country.
3. The ALA has consistently advocated that criminalisation of substance use also increases the level of stigma associated with drugs and further marginalises and excludes people who use illegal drugs.² The law has immense influence on social beliefs. It therefore should promote a fair and unbiased legal system, so that drug users do not become marginalised. Prohibiting certain drugs is inherently stigmatising because it conveys a message that certain drugs are bad and, therefore, so too are the people who use them.
4. Additionally, we note that specific drug-related law enforcement practices may disproportionately target certain groups.³ Stigma due to the criminalisation of drug use has been identified as a barrier to the person engaging in problematic drug use (or their family) seeking help, as someone is less likely to seek assistance if what they are doing is illegal.⁴
5. The ALA considers that an emphasis on a punitive criminalised approach to drug use in Australia has inhibited advances in research into the therapeutic and health benefits of cannabis use. The ALA also considers that a change in attitude could have huge health advantages and assist the many people who would benefit immediately from access to legal, less expensive and more readily available cannabis and other illicit drugs, subject to quality control.

² James D Livingston, Teresa Milne, Mei Lan Fang and Erica Amari, 'The effectiveness of interventions for reducing stigma related to substance use disorders: A systematic review' (2011) 107 *Addiction* 39, 40, discussed in Special Commission of Inquiry into the Drug 'Ice', above n 4.

³ Special Commission of Inquiry into the Drug 'Ice', above n 4, 598.

⁴ SBS News, 'Australian teen swallowed pills, "to avoid detection", inquest hears' (2019), <<https://www.sbs.com.au/news/australian-teen-swallowed-pills-to-avoid-detection-inquest-hears>> (accessed 25 August 2020).

Health justice through legalisation

6. The ALA, therefore, welcomes the advent of the *Legalising Cannabis Bill 2023* which represents a significant step away from Australia's current approach modelled on criminalisation. Such an approach has shown little success in reducing illicit drug use in general. Australia's reported rates of illicit drug use per capita are among the highest in the world,⁵ indicating the social ambivalence regarding their criminal status.⁶
7. The prohibition of the use of cannabis is ignored by many Australians with research showing that in 2016, 35 per cent (or approximately 6.9 million people) had used cannabis in their lifetime and 10.4 per cent (or 2.1 million) had used cannabis in the previous 12 months.⁷ More recently, studies have shown that there has been a shift from illicit to legal use of cannabis and the reason for the latter being to remedy chronic pain⁸, a finding that is consistent with previous studies.⁹ Those using illicit products were more likely treating mental health or sleep conditions.¹⁰
8. Despite the large increase in patients receiving prescribed products in the last two years, only 24 percent of prescribed patients agreed that the current model for accessing medicinal cannabis was easy or straightforward. A barrier identified by most respondents was the cost of accessing medicinal cannabis, with an average cost of \$79 per week, highlighting the need to address cost of treatment for patients.¹¹
9. Overall, the ALA continues to support the decriminalisation of possession and use of illicit substances at the very least, and preferably legalisation. It is evident that decriminalising or

⁵ United Nations Office on Drugs and Crime, *World Drug Report* (2012) discussed in Mostyn et al, above n 3, 262.

⁶ Mostyn et al, above n 3, 262.

⁷ Australian Institute of Health and Welfare, *Alcohol, tobacco and other drugs in Australia*, <<https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contents/drug-types/cannabis>>, viewed 5 March 2020.

⁸ Lintzeris, N., Mills, L., Abelev, S.V. et al. Medical cannabis use in Australia: consumer experiences from the online cannabis as medicine survey 2020 (CAMS-20). *Harm Reduct J* 19, 88 (2022).

⁹ MacPhail SL, Bedoya-Pérez MA, Cohen R, Kotsirilos V, McGregor IS and Cairns EA (2022) Medicinal Cannabis Prescribing in Australia: An Analysis of Trends Over the First Five Years. *Front. Pharmacol.*

¹⁰ Lintzeris, N., Mills, L., Abelev, S.V. et al. Medical cannabis use in Australia: consumer experiences from the online cannabis as medicine survey 2020 (CAMS-20). *Harm Reduct J* 19, 88 (2022).

¹¹ *Ibid.*

legalising drugs does not increase use but instead allows harm minimisation policies to be put in place that produce better outcomes for users.

10. We continue to see the criminal justice system carrying the major burden of drug policy in Australia. Funding for health and social services is diverted into law enforcement, prosecution and incarceration. As a result, significantly more public resources are expended on criminal law enforcement as opposed to health or treatment.¹²
11. The ALA supports the proposal to implement legalisation in the manner proposed by the Bill, that is, through the registration and licencing of cannabis strains. Such a system allows for the growth, manufacture and distribution of cannabis to become legal and also regulated by law enforcement. On the other-hand, decriminalisation prevents the safe operation of a cannabis business.
12. The ALA emphasises the benefit of a coordinated, unified approach to cannabis regulation through federal legislation which accords with the principle of justice and equity. This is particularly the case when it comes to differing laws across the states and territories.
13. Considering injustices surrounding drug-driving laws for those prescribed with medicinal cannabis, the ALA has long advocated that such laws are causing serious harm to people who can lose their license and sometimes their jobs and independence, for having any amount of medicinally prescribed cannabis in their system despite no evidence of impaired driving. Other people make a difficult decision to go without medicinal cannabis so they can drive, despite experiencing significant benefits from using the prescribed cannabis.
14. The ALA believes that Australia is in urgent need of the proposed Bill which reforms laws that are unjustly discriminating against cannabis users and to bring our laws in line with the increasing use of cannabis (recreational and prescribed). Further, we consider that a change in attitude could have huge health advantages and assist the many people who would benefit immediately from access to legal, less expensive and more readily available cannabis, subject to quality control proposed under this Bill.

¹² Mostyn et al, above n 3, 265.

The benefits of legalisation according to research

15. We note that studies continue to show a reduction in offences following legalisation. For example, one Canadian study found, over a seven-year period, legalising cannabis reduced cannabis-related youth crimes, supporting the legislation's objectives to reduce cannabis-related criminalization among youth and associated effects on the Canadian criminal justice system.¹³
16. In fact, the study found that police reports of criminal incidents for youth and cannabis related crimes dropped significantly from 55 to 65 per cent. The ALA echoes thoughts shared by Professor Dr Russ Callagan who conducted the study, noting:

“Most of the available research evaluating cannabis legalization has focused on cannabis-related harms, but this current research examines the potential benefits of legalization.”

“The criminalization of youth for cannabis-related crimes, such as cannabis possession, puts a tremendous burden on Canadian youth and the criminal justice system.”¹⁴
17. Based on this and similar research, the ALA rejects the notion that could serve as a “gateway drug” to other more powerful substances. Another study found no changes in illicit drug use after legalization and that low-level cannabis (most users in another study) does not appear to increase the risk of substance use disorders.¹⁵
18. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input into the Senate Standing Committee on Legal and Constitutional Affairs inquiry into the *Legalising Cannabis Bill 2023*.
19. The ALA is available to provide further assistance to the Committee on the issues raised in this submission.

¹³ Russell C. Callaghan, Marcos Sanches, Andrew Hathaway, Mark Asb, Marjorie MacDonald, Stephen J. Kish, Canada's cannabis legalization and police-reported cannabis-related criminal incidents among youth, 2015–2021, *Drug and Alcohol Dependence* (23 April 2023). Accessed online <<https://doi.org/10.1016/j.drugalcdep.2023.109892>>.

¹⁴ University of Northern British Columbia, 'Study finds reduction in youth cannabis offences after legalization', *Our Stories* (Webpage, September 24, 2021) <<https://www2.unbc.ca/newsroom/unbc-stories/study-finds-reduction-youth-cannabis-offences-after-legalization>>.

¹⁵ Stephanie M. Zellers et al. 'Recreational cannabis legalization has had limited effects on a wide range of adult psychiatric and psychosocial outcomes', Cambridge University Press, (5 January 2023). Accessed online <<https://doi.org/10.1017/S0033291722003762>>.

A handwritten signature in black ink, appearing to read 'Greg Barns', with a long horizontal stroke extending to the right.

Greg Barns SC

Criminal Justice Spokesperson

Australian Lawyers Alliance