

**WHITE PAPER - TOWARDS THE
STRENGTHENING OF THE LEGAL
FRAMEWORK ON THE RESPONSIBLE
USE OF CANNABIS**

Caritas's Malta Position

MAY 2021





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FOREWORD

This paper intends to present the position of Caritas Malta (hereafter referred to as Caritas) in relation to the white paper titled ‘Towards the strengthening of a legal framework on the responsible use of cannabis’

The paper looks at the proposals from a socio-legal-medical and economic perspective. This position is based on the opinions of Caritas professionals and staff. Residents within our therapeutic communities were also consulted. We have also reviewed research reports and studies from the fields of neurology, substance abuse, psychiatry, psychology and social policy to support our arguments.

Caritas is a church entity and has been working in the field for over 35 years and currently runs three therapeutic communities – San Blas (For Males) and a separate counterpart for Females and a Prison Inmates Programme specifically designed for persons who carry out the last part of their prison sentence within a therapeutic programme outside of prison. Caritas runs a Male Shelter together with a range of Community Services for persons struggling with substance abuse and their families. Caritas also runs an Aftercare Hub (Dar Charles Miceli). Throughout the years, all the above services, have been supported by The Ministry for Social Justice and Solidarity, The Family and Children's Rights, The Ministry for Home Affairs, National Security and Law Enforcement and numerous benefactors. Caritas will also soon open a specialised Therapeutic Centre for Adolescents with problematic substance use (Tal-Ibwar).

Caritas felt obliged to listen and also give a voice to those who are fully engaged in their recovery process and attending one of these rehabilitation programmes. It is pertinent to highlight that the majority of persons who use cannabis will not develop a full-blown addiction, however such a white paper directly affects persons who have substance abuse and dependence problems and their families. We cannot fulfil our obligation to these persons if we don't present their opinions in such a debate. Boxes with blue text include verbatim statements from residents from our therapeutic communities.

Green parts in the text are quotes from the white paper.



Anthony Gatt
Director

EXECUTIVE SUMMARY

Caritas supports the position that persons who use cannabis or are dependent on cannabis (or any other drugs) are not to be jailed and have their police conduct tarnished. However, considering the potential harm of cannabis, Caritas maintains the general position that as a society we need to contain the use of cannabis (and other drugs) as much as possible, prevent its popularisation and work hard toward discouraging use and alternatively encourage healthy lifestyles and healthy recreational activity.

The paper makes reference to the dangerous effects of cannabis and also the medicinal benefits. The reference to medicinal benefits in a white paper on personal use might have been confusing and may have underrated the seriousness of the negative effects of cannabis use (not for medicinal purposes). This white paper appears to be oriented towards social users and less toward the protection of vulnerable groups.

The White Paper states that **"Nothing in this White Paper is intended to encourage, promote, or in any way lead to the consumption of cannabis"** (White Paper, page 5). While Caritas shares this common value, Caritas is also concerned that a number of proposals in this white paper may go on to further normalise cannabis use and may inadvertently lead to more use. The two proposals of greater concern include the inconsequential possession of up to 7 grams (that can amount to approximately 21 joints) and the inconsequential possession of up to 4 cannabis plants (whose yield can go up to 500 grams per plant). The possibility of having plants at home and the lifting of any sanction for possession of up to 7 grams may facilitate use, give the impression that cannabis effects are not as serious and may lead to more use. The larger the segment of the population using cannabis, the larger the segment of people suffering ill effects will be.

Groups that may suffer from such proposals:

01

Long term cannabis exposure of the brain increases risk of Alzheimer's later on in life. The lifting of any sanctions for up to 7 grams and possession of four plants may inadvertently reinforce the use also for **social users**.

02

The normalisation of drug use is particularly **dangerous for the younger generations**. Cannabis consumption in the adolescent brain is devastating. This is especially worrying since cannabis could damage adolescents' learning capacity and brain development. Furthermore 1 in 6 adolescents who use cannabis can develop further dependency on the substance. (WHO, 2016)

03

Problematic drug users will suffer. While we acknowledge that not all persons who use cannabis will eventually develop a dependence on cannabis or other substances our experience has shown that almost all persons with serious drug dependencies started off their drug using careers with cannabis. It is estimated that around 1 in 10 who cannabis in their adulthood will go on to develop a full-blown dependency/addiction on cannabis (WHO, 2016). Persons struggling with problem use of cannabis and other substances will have less reason to curtail their use in a permissive legal environment, making it more difficult for them to quit.

04

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05

Families who struggle with a relative who is dependent on cannabis or any other substance undergo enormous strain in trying to motivate their loved ones to seek support. Parents and partners of cannabis users are already experiencing an increased sense of loss when, their substance dependent loved ones express that cannabis is an individual right and "will soon be legalised".

Groups that may suffer from such proposals:

06

Persons in recovery for whom recovery from drug dependence is a life-long journey will be placed at increased risk of relapse when faced with a more permissive approach and possibly more exposure to plants and substances in the homes.

04

Those predisposed to mental health problems will suffer. A portion of the population that is genetically predisposed to develop psychotic disorder such as schizophrenia are at increased risk to having this serious disease when using cannabis. These numbers will increase proportionally with more use.

05

Pro-liberalisation movements have argued that forbidden fruits are more attractive and instigate youngsters to use the drug out of a thrill. The normalisation of the consumption of cannabis will not end this dynamic and other drugs will take the role of forbidden fruit prompting ever more use of these drugs.

The lifting of any sanctions for up to 7grams may also push the black market to use runners to distribute cannabis in 7gram individual packets so if caught with one packet no consequence will be suffered. This is an inadvertent effect of the proposed changes in the White paper. Any long-term impact of these proposals on increased use, will also continue to fuel the black-market.

The attempt to contain the use of cannabis use in-front of minors in homes where parents use cannabis is sensible however this appears impractical. Social learning theory supports the idea that behaviours are learned through role models. There is a proportion of users who are parents who will go on to smoke or use cannabis in front of their kids. This will not only serve as negative role modelling but also pose child protection risks. Enforcement of this proposal appears to prove very difficult. What is positive is the maintenance of the tribunal system for minors. This needs to continue its focus on referral to support services.

A positive assertion of the white paper that public use needs to be contained, discouraged and controlled is very valid. The increase of the administrative fine supports the idea that sanctions can have an impact on behaviour and potential consequences to be absorbed (administrative fine) influence behaviour. This sanction can have desired impact only if enforced. From the field we have several reports of public cannabis use that also happens in plain sight with no consequence. If readiness for enforcement is not there this will lead to failed regulation.

While Caritas does not recommend the inconsequential possession of Cannabis plants or 7grams, in the context of decriminalisation THC level thresholds for decriminalisation need to be established.

No reference is made regarding the prevention and control of driving under the influence of cannabis. Likewise no reference is made with regard to the relative health and safety responsibilities of employers with regards to employees who use cannabis. We understand that this is a perspective on which current legislation already exists. However in light of a new scenario considerations need to be made with regards to the impact on our roads on workers.

It is of paramount importance that proposal related to cannabis use are taken with great caution since any increase in use will automatically increase harm for the individual, family and the population at large. The gross ill effects of liberalisation will be faced 10, 20 years down the line. To reduce any potential harm from a change in direction Caritas makes the following recommendations:

1. Commission specifically set up to carry out impact assessment. Research is needed to know the exact current trends – who is using, how much, what potency, where are people using etc. This information is crucial to make an impact assessment of any policy change.
2. Decriminalisation. After a sound impact assessment a move from depenalisation to decriminalisation can be considered.
 - Decriminalisation can be considered for small amounts however the sanction of an administrative fine and citation to the tribunal to remain for any small amount.
 - With regards to the amounts to be decriminalised, this is be studied well according the current data on perons arraigned with cannabis possession, and its impact evaluated. The increase from 3.5 to 7grams as simple possession can be considered. The ceiling of 28grams to be as the amount for simple personal possession appears excessive and needs to be studied and reduced.
 - While for some persons, being arrested as part of the investigation related to a first time use offence can be a turning point, Caritas understands that this may be experienced as heavy handed by users. With decriminalisation this practice can cease to exist in cases of persons in possession of small amounts.
 - The Commissioner for Justice is granted powers to refer to the DORB cases that appear to involve problematic use of cannabis and or other drugs even when they face the tribunal the first time.
 - Minors caught with cannabis for personal who face a citation to the Tribunal need to be channeled for an assessment of their use or help right away. The commissioner given powers to not only recommend but impose such an assessment

-
3. Resources for Mental Health Services. Malta has a very comprehensive range of services for substance use and dependence. Caritas, Sedqa and OASI together offer numerous and specialised outpatient and residential services. Caritas is soon opening a state of the art centre for minors with problematic substance in collaboration with the Ministry for Social Justice and Solidarity, The Family and Children's Rights. More resources are required within mental health services especially with regard to inpatient treatment. Progressively more persons with substance use problems are requiring hospitalisation. Resources are very stretched and any change in policy that could result in more demand for services needs to consider the current state of treatment services and the strain they are under.

 4. Comprehensive Drug Policy. Caritas proposes the updating of a comprehensive drug policy that goes beyond cannabis. Such policy should set the direction for supply and demand reduction policies across public and private entities and the general public at large. Such policy should be informed by research on what keeps young people away from drugs and what are risk factors for use.



CARITAS POSITION

The White Paper states that **"Nothing in this White Paper is intended to encourage, promote, or in any way lead to the consumption of cannabis"** (White Paper, page 5). While Caritas shares this common value, Caritas is also concerned that a number of proposals in this white paper may go on to further normalise cannabis use and may inadvertently lead to more use.

This white paper appears to be oriented towards social users and less toward the protection of vulnerable groups.

The paper makes reference to the dangerous effects of cannabis and also the medicinal benefits. The reference to medicinal benefits in a white paper on personal use might have been confusing and may have underrated the seriousness of the negative effects of cannabis use (not for medicinal purposes).

Caritas supports the position that persons who use cannabis or are dependent on cannabis (or any other drugs) are not to be jailed and have their police conduct tarnished. Caritas advocates for upgrades in the 2015 Law – Rehabilitation not Imprisonment by eliminating arrests for personal possession, maintaining administrative sanctions for any small amount for personal possession and strengthening referral system for substance use evaluations by mental-health professionals. Caritas advocates for a serious impact assessment of any new proposals; a study on approaches to reduce demand of substances in our local context and a holistic evidence based drugs policy.



“Jien bdejt bil-haxixa imma kelli mmur ghal drogi ohra ghax ma baqghetx taffettwani... din tajba hafna se tkun ehh... mela bi 28 gramma ma jsir xejn u bi ffit grammi coke jitfghek il-habs.”

"Ghala qed naghzlu minn droga ghall-ohra, mela b'wahda tmur il-habs u bl-ohra tiddamdam kemm trid b'7 grammi u 4 pjanti. Ghax ma naqbdux u naghmlux kollox permessibbli mela.



NORMALISATION OF CANNABIS USE - RISKS OF INCREASED USE AND INCREASED HARM

“The full decriminalisation of this amount is being proposed, that is, adults in possession of 7 grams or less for their personal use cannot be subject to any legal proceedings, or the imposition of any fine or punishment". (White Paper, Page 14)

"It is being proposed that every residential habitation (household) can grow up to 4 plants, in a space which is not visible to the public, and which does not emit smells. (White Paper Page 15)

The proposal that being in possession of 7 grams of cannabis and 4 plants at home will carry no consequences, appears to give the message that cannabis is not as harmful and removes the social sanction against drug use. This is a drastic change from previous legislation, and we expect this to lead to a further reduction in the perception of risks, a more favorable outlook toward cannabis and potentially to increased use.

While we acknowledge that not all persons who use cannabis will eventually develop a dependence on cannabis, cannabis has dangers both for those who go on to develop a full blown addiction, and others who do not.

Extra caution needs to be exercised when suggesting new directions since cannabis is the most commonly used illegal substance in Malta. Rates of use amongst teenagers are relatively low compared to European averages: of all 15-16-year-olds interviewed in 2019 in Malta, 12% reported ever having tried cannabis in their life, against the EU average of 16% (ESPAD Group, 2019). In the 2015 version of ESPAD this statistic was 13% for Malta and 16% for Europe.

In the 2011 general population survey of 18-64-year-olds in Malta, 4.5% reported ever having tried cannabis (as reported in EMCDDA, 2019). The trend of increased use among adults appears to be confirmed by another survey conducted in 2019 by Malta Today and quoted in the white paper, where overall, 9.4% of respondents replied to ever having used cannabis. This rose to 17.5% among those aged between 18-35 years old (Sansone, 2019). However more robust research needs to be carried out to establish the extent of use among adults.

Source	Age Group	Year	%
ESPAD	15-16	2019	12%
General Population Survey	18-64	2013	4.5%
MaltaToday Survey	18-65+	2019	9.4%

Figure 1: Cannabis Use Statistics

In the past years we have seen a growing demand for services from persons with problematic use of cannabis and cocaine. This was coupled with a reduction in those seeking support services for heroin addiction (Figure 1).

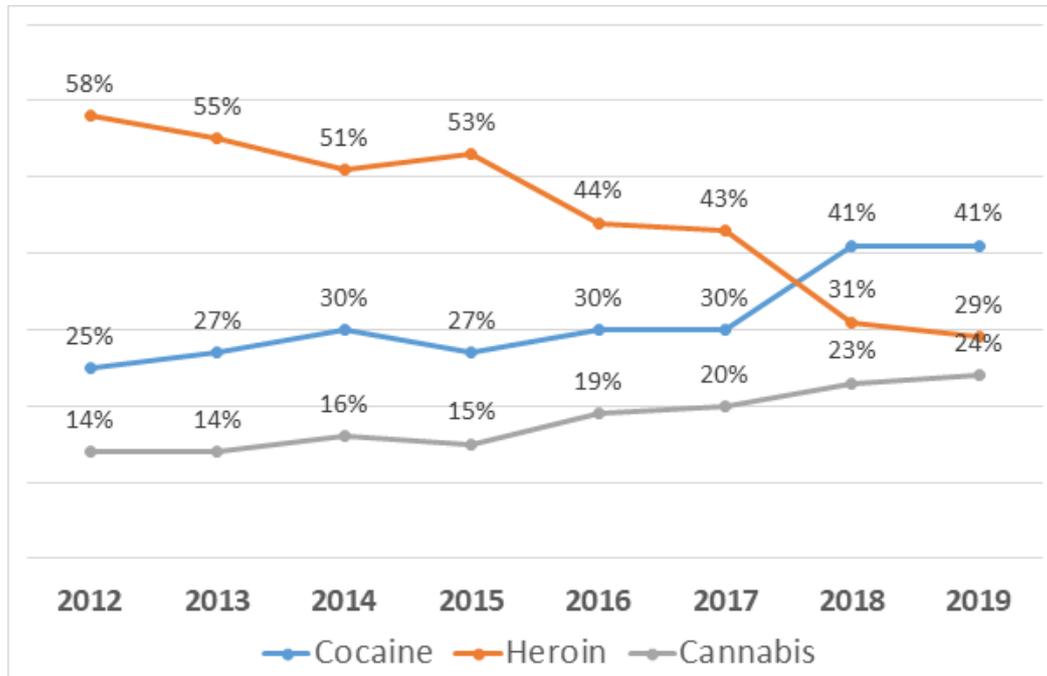


Figure 2: Percentage of Clients receiving services from Caritas according to their primary problematic substance.

The arising trend in help seeking behaviours of cannabis users appears to be correlated with the increase use of the substance.

Our society needs to ensure full protection for the most vulnerable and avoid any legislation that may inadvertently reinforce use and contribute to increased use. Proposals in white paper especially related to the possession of 7 grams and 4 cannabis plants with no sanction may result in this. With more use comes more suffering.

These are potential consequences for more harm associated with more use of the substance:

- Long term cannabis exposure of the brain increases risk of Alzheimer's later on in life. The lifting of any sanction for up to 7 grams and possession of four plants may inadvertently reinforce the use also for social users.
- The normalisation of drug use is particularly dangerous for the younger generations. Cannabis consumption in the adolescent brain is devastating. This is especially worrying since cannabis could damage adolescents' learning capacity and brain development. It does affect adolescent users' cognitive functions, including their attention, motivation, memory and the capacity to learn new things. It is especially worrying as adolescents' brain and social identity are still developing, meaning the repercussions would stretch into their future ability to reach their full potential.

These are potential consequences for more harm associated with more use of the substance (WHO, 2016)

“Ahna mhux kollha ta' 13/14 bdejna... x'qed nghidulhom lit-tfal? Li din orrajt ta mur hudha – se niġu sew!”

“La ghandna t-tfal ma naqbilx żgur – kull min ghandu t-tfal ghandu għax jinkwieta”

“U hallina mhux hekk – hamsa u għoxrin sena ilu konna niltaqghu hdejn il-*** niehdu joint. Ara dak il-joint fejn wassalna. Inqum u norqod bil-joint, u mort għall-pirmli meta ma baqax jagħmilli effett – iva żgur tmur għal oġġett ieħor – żgur li ma naqbilx – se neqirdu kollox.”

“Jien bdejt mill-haxixa imbagħad xorb.”

“Dawn l-affarijiet minnhom tibda u mis-saba' tieħu l-id.”

“Dawn in-nies (il-politiċi) jafu kemm hawn tfal ipejpu; tifel jibda bl-ismoke... irid iżid birra.. xorb irqiq.. jafu kemm thasru nies.”

“Ghandi t-tfal... se jitilgħu f'soċjetà mgerfxa... għall-ġenerazzjonijiet tal-lum diġà l-haxixa qisha pakkett helu.”

“Habba t-tfal tagħna... it-tifel diġà għandu mera bija ġieli rani nużà... nibzà li jiġrilu bħalma ġrali jien... mill-haxixa komplejt.”

“Kif se nghid lit-tifel tpejjipx?”

“Nitlobkom issemmu lit-tfal!”

“Bhalissa diġà supermarket (tad-droga)... ma nistax nghidlu lit-tifel dik hażina...”

“Ghandi tfal ma nixtieqx jibdewha... se jsibuha handy.”

“Jalla ma tigix għax tfal ghandi.”

“Ghandi żewġt itfal. Ma rridx li jgħaddu milli għaddejt.”

“Qed ittihom il-kunsens.”

“(irrabjat). Nara tifel hanina... Nara tifel...ma jafux x'se jgħaddu minnu.



Problematic drug users will suffer. While we acknowledge that not all persons who use cannabis will eventually develop a dependence on cannabis or other substances our experience has shown that almost all persons with serious drug dependencies started off their drug using careers with cannabis. In fact, of the 2019 cohort of 732 clients attending caritas services 92% started their drug use under the age of 19 years with cannabis being preferred drug of choice at the start. It is estimated that around 1 in 10 who cannabis in their adulthood will go on to develop a full-blown dependency/addiction on cannabis (WHO, 2016). Persons struggling with problem use of cannabis and other substances will have less reason to curtail their use in a permissive legal environment, making it more difficult for them to quit.

“Il-Caritas se jkollha problema ikbar... l-użu se jżiedied.”

“Tbexxaq bieb u tiftaħ tieqa perikoluża.”

“Fil-bidu se jkun hawn furja kbira.”

“Ha tiftaħ aktar bibien”

“Ma tagħmilx sens... Kollox easy sirna”

“Id-droga nħobbha u nibqa’ nħobbha ħajti kollha imma illum nifhem li mhix tajba għalija u rrid inżomm ’il bogħod minnha għax lili tagħmilli l-ħsara. Ġabitli ħafna konsegwenzi ta’ saħħa, flus, tbatijiet u ħabs. Żgur li ma naqbilx li tkun faċli li taċċessa l-Cannabis.”

“Hafna Addicts li naf jien bdejna bl-ismoke – imbagħad morna għall-pilloli u wasalna fejn qedgħin illum – bi għlieda magħna nfusna ta’ kuljum x’sse nagħmlu b’ħajjitna. Ġejna maħkumin u allura żgur li ma naqbilx li tkun daqsekk faċli li taċċessaha għax nerggħu nibdew kollox mill-bidu”.

“Ma naqbilx – il-pajjiż tagħna tant hu żgħir li kieku t-tfal kollha jibdew ipejpu l-Cannabis. Għalina żgur tentazzjoni kieku kellha ssir”

“Bħala eks user se tkun perikoluża żgur – u wara kollox jien il-cannabis veru kienet tagħmilli burdata ħażina.”

“Jien nibqa’ ngħid li ma naqbilx – jekk jien wara dan ix-xogħol kollu noħroġ u nsibha faċli ma nafx x’nagħmel.”

“Dawn in-nies li qed jagħmlu programm... se tkun iktar iebes għalihom.”

Families who struggle with a relative who is dependent on cannabis or any other substance undergo enormous strain in trying to motivate their loved ones to seek support. We are encountering parents and partners of cannabis users who are experiencing an increased sense of loss when, their substance dependent loved ones express that cannabis is an individual right and “will soon be legalised”.

Persons in recovery for whom recovery from drug dependence is a life-long journey will be placed at increased risk of relapse when faced with a more permissive approach and possibly more exposure to plants and substances in the homes.

Those predisposed to mental health problems will suffer: Furthermore a portion of the population that is genetically predisposed to develop psychotic disorder such as schizophrenia are at increased risk to having this serious disease when using cannabis. These numbers will increase proportionally with more use.

“ I started with a joint, tolerance after 6months.. I needed 4 joints.. way more THC then 10 years ago.. I have experienced paranoia in the last 3/4years... paranoia makes you go crazy.”

“Għal min għandu problema ta' droga mhix tajba.. paranoia!”

“Anke annimal...il-kelb... ġie paranoid b'passive smoking.”

“Ma jharsux sal-ponta ta' mnehirhom... wara snin ta' użu tiġi l-paranoja”

“Hafna minnha... bdejna minnha... spiċċajna b'mard tal-moħħ.”

”Il-Marijuana ddum ġo moħħok, bħal cocaine... iġġib mard mentali.”

“Tmissa - tabakk jiġi moħħok - kont ninsa biha.”

“Tpejjep fit-tul... ħsara... jekk ma npejjipx 3 sigaretti kuljum niġi demonju... tbatu biex taqtagħha... taffetwak mentalment.”



“ Teenagers are curious.. if weed is seen as ok or legal, like cigarettes and alcohol... it will not be as naughty... those who want to be naughty will do something else (other drug)... they will skip weed and do coke for thrill... Coke gets you addicted right away while weed mhux dejjem gives you a good effect... xi kultant tirremetti biha.”

“Nemmen li min irid thrill jew jagħmel xi haġa hazina, se jaqbeż l-ismoke u jmur għal xi haġa oħra.”

“Se jżidu r-riskju tal-hard drugs.”

“People will go for the thrill... weed will decrease and there will be an increase in use of other drugs.”

“Ha jgħagġlu l-process.”

“Se jmorru għal heavy drugs.”

“Se jaqilbu għal-pipi/bongs (tal-kannabis) u mhux iħaltuha mat-tabakk.”

“Ser issib kollox... se jgħagġlu l-excitement.”

“Dak li hu illegali itik thrill... tagħmlu bil-bizà tad-dar jew tal-pulizija. Dan mhux se jibqà.”

The normalisation of the drug will most likely bring increased use of cannabis. In a culture where substances are being associated with recreation, the normalisation of cannabis can also in the long run lead to increased use of other drugs. Pro-liberalisation movements have argued that forbidden fruits are more attractive and instigate youngsters to use the drug out of a thrill. The normalisation of the consumption of cannabis will not end this dynamic and other drugs will take the role of forbidden fruit prompting ever more use of these drugs.



IMPACT ON BLACK MARKET

The lifting of any sanctions for up to 7grams may push the blackmarket to use runners to distribute cannabis in 7gram individual packets so if caught with one packet no consequence will be suffered. This is an inadvertent effect of the proposed changes in the White paper. Any long-term impact of these proposals on increased use, will continue to fuel the black-market.

ENFORCEMENT DIFFICULTIES

“Cannabis cannot be consumed before minors, and residents are to ensure that it is stored in places which are inaccessible to minors residing in the same habitation. (White Paper, Page 15) ”

The attempt to contain the use of cannabis use in-front of minors is sensible however this appears very impractical. Social learning theory supports the idea that behaviours are learned through role models. There is a proportion of users who are parents who will go on to smoke or use cannabis in front of their kids. This will not only serve as negative role modelling but also pose child protection risks. Enforcement of this proposal appears to prove very difficult.

“Ta’ 14 kont inpejjep l-ismoke.. kont inhossni mhu qed naghmel xejn hazin ghax anke missieri kien juza... qbiżt 8 snin nużau l-paranoja iebşa tihhendiljaha. Il-haxixa kienet my first choice... trabbejt bil-mentalità li dik mhux droga.”

“It is being proposed that the consumption of cannabis in public should not be allowed in any case. The relative punishment for this breach should be identical to the one imposed for the smoking of tobacco in prohibited spaces, and therefore, an administrative fine of €233.33.” (White Paper, Page 16) ”

This is also a sensible proposal and underlines the use of an administrative fine as a measure to contain use in public spaces. It reinforces the idea that sanctions can have an impact on behaviour and potential consequences to be absorbed (administrative fine) influence behaviour. This is in itself a sanction that can only have an effect if enforced.

We have observed a lack of consistency in the area of enforcement. From the field we have several reports of public cannabis use that also happens in plain sight with no consequence. If readiness for enforcement is not there this will lead to failed regulation.

WHITE PAPER – AREAS REQUIRING ELABORATION

THC THRESHOLDS

Cannabis is a plant species. Two main Cannabis sub-species are Cannabis Sativa and Cannabis Indica. Cannabis sativa is one of the world's oldest cultivated plants (Russo, 2007). To date, more than 104 different cannabinoids have been identified in cannabis (ElSohly and Gul, 2014). Cannabinoids are a group of psychoactive chemical compounds found in the cannabis plant. Among these, Δ -9-tetrahydrocannabinol (THC) has received the most attention for being responsible for the intoxicated state sought after by 'recreational' cannabis users. Another important constituent within the cannabis sativa plant is cannabidiol (CBD). CBD lacks the cannabis-like intoxicating properties of THC. There is evidence that CBD could potentially be exploited in the treatment and symptom relief of various neurological disorders (NAP, 2017). For ease of reference throughout this document Δ -9-tetrahydrocannabinol will be referred to as THC.

While cannabis is regularly referred to as a soft drug. This is a simplistic term as the effect of cannabis is highly influenced by the concentration of THC, the quantity used and the frequency. Cannabis with high levels of THC and high levels of use make cannabis as hard as you can get. Cannabis itself is getting stronger. The stuff puffed by hippies in the 1960s had around 1% of THC. Today's THC levels can run to over 30%.

While Caritas does not recommend the inconsequential possession of Cannabis plants or 7grams, in the context of decriminalisation which Caritas supports – THC level thresholds for decriminalisation need to be established.

TESTING OF DRUG-DRIVING & OCCUPATIONAL HEALTH AND SAFETY SAFEGUARDS

No reference is made regarding the prevention and control of driving under the influence of cannabis. Likewise no reference is made with regard to the relative health and safety responsibilities of employers with regards to employees who use cannabis. We understand that this is a perspective on which current legislation already exists. However in light of a new scenario where someone can hold 4 plants and also have no proceedings if found with an amount for personal use of up to 7grams - considerations need to be made with regards to the impact on our roads on workers. This might be more pertinent with regards to persons who work in the construction industry, drivers, healthcare professionals, disciplined forces and others.

RECOMMENDATIONS

In the light of the above we propose the following recommendations:

COMMISSION SPECIFICALLY SET UP TO CARRY OUT IMPACT ASSESSMENT

Due to the sensitive nature and potential negative repercussions of a number of the white paper proposals we advocate for the setting up of a commission to carry out an impact-assessment of such proposals. The impact assessment should consider the type or model of legislation and corresponding impact on:

- 1 Short term and long term Public Health**
- 2 Drug usage trends**
- 3 Road Safety**
- 4 Occupational Health and Safety**
- 5 Attitude change and the popularisation of the drug**
- 6 Impact on and the Adaptation of the Black Market**
- 7 Enforcement**
- 8 Our obligation to UN Conventions related to drug use for which Malta is signatory**

FROM DEPENALISATION TO DECRIMINALISATION

After a sound impact assessment a move from depenalisation to decriminalisation can be considered. First we explain the current judicial instruments at hand for persons caught with small amounts of cannabis.

“**The Drug Dependence (Treatment not Imprisonment) Act depenalised the possession of less than 3.5 grams of cannabis. By means of this provision, persons found in possession of said amounts are subject to proceedings before the Commissioner for Justice, and are liable to a fine ranging between €50 to €100.11 Where persons are found guilty of the same offence for a second time, and the Commissioner for Justice considers it necessary, the person may also be made to appear before the Drug Offenders Rehabilitation Board 12 (White Paper, Page 11)**”

”

legislative amendments were also made: **“Act IV of 2020, which gave the Court discretion on effective imprisonment, when it is satisfied that the cultivation in question was for the exclusive use of that person.” (White Paper, Page 11).**

As per the 2015 Law as explained above (White Paper) the judicial system has two instruments:

1. The Drugs Tribunal for first time offenders
2. The Drug Offenders Rehabilitation Board (DORB) to whom second time offenders can be referred. Persons who are drug involved and have related sentences that do not carry less than 10 year imprisonment may also be referred to the DORB.

As things stand persons who are caught in possession of a small amount will not be sentenced to prison or have their conduct tarnished. Instead they will receive a citation to appear in the tribunal and pay an administrative fine. Persons who pay online can also not attend the Tribunal. If a person is caught the second time he/she is referred to the DORB that imposes treatment: psychosocial assessment followed by intervention according to need.

This system has been giving very sound results. It has maintained a sanction for personal use (fine) and also imposed help for those caught the second time round. Persons with more serious amounts or criminal involvement due to substances may be referred to DORB from the courts. Here the majority have done well, avoided prison sentences and also rehabilitated themselves.

PROPOSED AMENDMENTS:

- 01 Decriminalisation can be considered for small amounts however the sanction of an administrative fine and citation to the tribunal to remain for any small amount. Here the law sets the limits to be upheld and reinforces the message that substance use including cannabis use should be discouraged. Behavioural change theories propose that 'people don't change if they do not need to change'. Decreasing the limits and controls on a behaviour will effect human behaviour. One example is the increased enforcement on the use of seat belts – 30 to 40years ago Malta did not have a culture of putting on seat belts. When enforcement was upped and people started being fined on the lack of use of seat belt, the behaviour changed dramatically. An example more closely related to the drug scene are the limits of smoking; the prohibition of the Khat in Malta and all the work that is being carried out by the government to prohibit very harmful synthetic cannabinoids. For such reasons the sanction of the tribunal for simple possession of any small amount should remain for any small amount.
- 02 With regards to the amounts to be decriminalised, this is be studied well according the current data on perons arraigned with cannabis possession, and its impact evaluated. The increase from 3.5 to 7grams as simple possession can be considered. The ceiling of 28grams to be as the amount for simple personal possession appears excessive prima facie. However this needs to be studied.
- 03 While for some persons, being arrested as part of the investigation related to a first time use offence can be a turning point, Caritas understands that this may be experienced as heavy handed by users. With decriminalisation this practice can cease to exist in cases of persons in possession of small amounts.
- 04 The Commissioner for Justice is granted powers to refer to the DORB cases that appear to involve problematic use of cannabis and or other drugs even when they face the tribunal the first time. In this way intervention is actioned promptly rather than waiting to being caught the second time round.
- 05 Minors caught with cannabis for personal who face a citation to the Tribunal need to be channeled for an assessment of their use or help right away. All 228 minors who have appeared in front of the commissioner since the establishment of the Tribunal needed support. This needs to be formalised further and the commissioner given powers to not only recommend but impose such an assessment. The imposition is at the service of the minor who in cases of problematic use, most often will present with a denial of the problematic use. So in principle Caritas is in agreement with proposal 6 of the White Paper as per below:

“Minors, that is, persons under the age of eighteen, should be distanced from the criminal justice system as much as possible. Equally important is distancing minors from cannabis and its potential effects at such a tender age, and discouraging its use. To this end, it is being proposed that minors in possession of cannabis for their personal use should not be subject to proceedings before the Courts of Criminal Jurisdiction, but to administrative proceedings before the Commissioner for Justice and the Drug Offenders Rehabilitation Board, as the case may require. Penalties should be of an administrative nature, not criminal, and should assist minors in moving away from cannabis use. In this case, minors are not to be subject to arrest, or escorted to the General Headquarters / Police Station for interrogation on the basis of that possession, unless a reasonable suspicion of trafficking, sale, import or export by that person arises.” (White Paper, Page 16)

RESOURCES FOR MENTAL HEALTH SERVICES

Malta has a very comprehensive range of services for substance use and dependence. Caritas, Sedqa and OASI together offer numerous and specialised outpatient and residential services. Caritas is soon opening a state of the art centre for minors with problematic substance use in collaboration with The Ministry for Social Justice and Solidarity, The Family and Children's Rights. While the authorities are to be applauded on the support for such services, more resources are required within mental health services especially with regard to inpatient treatment. Progressively more persons with substance use problems are requiring hospitalisation. Resources are very stretched and any change in policy that could result in more demand for services needs to consider the current state of treatment services and the strain they are under.

COMPREHENSIVE DRUG POLICY

Caritas proposes the updating of a comprehensive drug policy that goes beyond cannabis. Such policy should set the direction for supply and demand reduction policies across public and private entities and the general public at large. Such policy should be informed by research on what keeps young people away from drugs and what are risk factors for use.



CONCLUSION

Caritas supports the position that persons who use cannabis or are dependent on cannabis (or any other drugs) are not to be jailed and have their police conduct tarnished. Caritas advocates for upgrades in the 2015 Law – Rehabilitation not Imprisonment by eliminating arrests for personal possession, maintaining administrative sanctions for any small amount of personal possession and strengthening referral system for substance use evaluations by mental-health professionals. Caritas advocates for a serious impact assessment of any new proposals; a study on approaches to reduce demand of substances in our local context; and a holistic evidence based drugs policy.

While Caritas understand that not all persons who consume cannabis will go on and develop a dependence on the substance, and such persons should not be stigmatised, Caritas is concerned that a number of proposals in this white paper may go on to further normalise cannabis use and may inadvertently lead to more use. This white paper appears to be oriented towards social users and less toward the protection of vulnerable groups.

While cannabis has been effectively used for medicinal purposes, the white paper needs to more boldly state the dangerous effects of cannabis on adolescents; those with a predisposition to develop mental illness and dependency on the substance; those with cognitive deficits and also long term health risks such as Alzheimer's.

Caritas remains committed to support legislation that is based on these principles:

- 1. Protecting Vulnerable Populations:** Laws and policies that do not lead to the popularisation of cannabis and other drugs; we would like to see policies and laws that protect the more vulnerable segments of our society who risk developing addictions and other serious mental health problems due to exposure to cannabis and other drugs.
- 2. Decriminalisation:** Caritas favours laws that are sensitive, not heavy handed and laws that oblige a person to seek help as an alternative to punishment. This has already proved successful since 2015 and the 2020 amendments.

In the context of this white paper and lobby groups advocating for going beyond decriminalisation and to legalisation, Caritas would like to pose a question to readers of this position paper. What kind of society do we want for ourselves and our future generations? Cigarette smoking and alcohol are two psychoactive drugs (substances that enter and impact the brain) that have been integrated in our culture. Such drugs already have devastating impact in relation to mortality, illness and accidental deaths. Do we want cannabis as another drug on the menu of options with tobacco and alcohol?

Caritas remains committed to accompany persons who are negatively affected by cannabis and other substances, and their families. We are committed to accompany persons who use substances as a crutch in their daily lives or as a coping strategy to support them in finding new hope in renewed ways of living fully. Caritas advocates for all stakeholders to work together toward a compassionate society, and a life giving society – a society that encourages and supports wellness cohesion and inclusion.



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