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Rethinking International Drug Policy: Treaty Flexibility, Rhizomatic Classification and Evidence-Based Regulation

Abstract

More than six decades after the adoption of the 1961 Single Convention on Narcotic Drugs, international drug policy requires a reassessment of its legal foundations, scientific assumptions and public health outcomes. Advances in pharmacology, neuroscience and addiction medicine have challenged simplistic representations of psychoactive substances, while decades of prohibition have raised questions about the effectiveness and proportionality of existing regulatory approaches.

The European Coalition for Just and Effective Drug Policies (ENCOD) proposes three complementary directions for reform: a good-faith reassessment of the flexibility already contained in the international conventions, including Article 2(9) of the 1961 Convention; the development of a multidimensional, rhizomatic model of psychoactive substance classification; and the establishment of independent, evidence-based evaluation of national drug policies.

Drawing on the legal analysis developed by Kenzi Riboulet-Zemouli in *High Compliance* (FAAAT, 2022), ENCOD invites the CND to reconsider the assumption that the conventions necessarily require the prohibition of all non-medical uses. ENCOD also proposes moving beyond rigid, vertical scheduling towards a dynamic network of interconnected scientific, therapeutic, social and regulatory dimensions.

The ultimate objective is to make international drug policy more adaptable, proportionate and accountable, while protecting public health, human rights and access to essential medicines which are at the roots of the International Drug control system.

1. Reassessing the legal foundations of international drug control

The 1961 Single Convention establishes an international framework for controlling narcotic drugs, while explicitly recognising the indispensable role of medical substances in relieving pain and

suffering. Its objectives must therefore be understood in the context of both public health protection and the availability of controlled medicines.

However, the Convention should not be interpreted exclusively through a prohibition-centred reading that treats every non-medical use as necessarily prohibited under international law.

Article 2(9) provides that Parties are not required to apply the Convention's provisions to drugs commonly used in industry for purposes other than medical or scientific ones, provided that appropriate safeguards prevent abuse and harmful effects, harmful substances cannot practically be recovered, and quantities used are included in the statistical information supplied under Article 20.

In *High Compliance: A Lex Lata Legalization for the Non-Medical Cannabis Industry* (2022), Kenzi Riboulet-Zemouli develops an alternative interpretation of the Convention, arguing that its provisions contain regulatory possibilities for non-medical cannabis activities that deserve serious legal examination. The analysis challenges the assumption that international drug-control treaties are comprehensive prohibition instruments rather than frameworks containing differentiated rules, exceptions and regulatory flexibilities.

ENCOD considers this contribution important for the CND debate. Article 2(9) should be examined through systematic treaty interpretation, taking account of its wording, context, purpose and relationship with other relevant provisions. Its possible application to regulated non-medical cannabis activities should be assessed openly, including the precise meaning of industrial use and the practical requirements of its safeguards.

This is not a claim that Article 2(9) automatically legalises every form of recreational cannabis use. Its express conditions must be respected, and its scope remains a matter requiring rigorous legal scrutiny. Rather, it establishes a legitimate basis for examining whether alternative regulatory arrangements can be developed within the existing treaty framework.

ENCOD therefore calls for an independent international legal assessment of the exemptions and interpretative flexibility contained in the 1961 and 1971 Conventions, avoiding the assumption that the most restrictive interpretation is necessarily the only legally defensible one.

2. From hierarchical scheduling to rhizomatic classification

The international drug-control system relies on schedules that organise substances into predetermined legal categories. Although this structure facilitates international coordination, it does not adequately represent the multidimensional nature of psychoactive substances.

Pharmacological effects, acute toxicity, dependence potential, therapeutic value, patterns of consumption and social consequences are distinct dimensions. A substance may have been recognised for medical applications while presenting risks under certain conditions of use. Another may have relatively limited dependence potential but significant acute toxicity. Risks also vary according to dosage, formulation, route of administration, frequency, individual vulnerability and social environment.

ENCOD proposes to examine a **rhizomatic classification model** inspired by the concept of the rhizome developed by Gilles Deleuze and Félix Guattari. Unlike a fixed, tree-like hierarchy, a

rhizome is a dynamic network in which elements are interconnected through multiple relationships without being subordinated to a single organising centre.

Applied to narcotic drugs and psychoactive substances, this approach would replace the assumption that one legal category can adequately summarise a substance's properties with an interconnected scientific mapping system.

Its dimensions would include:

- Pharmacological mechanisms and physiological effects.
- Acute and chronic toxicity.
- Dependence potential and problematic patterns of use.
- Therapeutic applications and research potential.
- Dosage, formulation, routes and frequency of consumption.
- Individual and population vulnerability.
- Social, economic and public health consequences.
- Product quality, potency and contamination.
- Regulatory impacts, including medical access, research and illicit-market displacement.

Existing multicriteria research, particularly Nutt et al. (2007, 2010), demonstrates the value of distinguishing different dimensions of drug-related harm rather than relying on a single ranking. WHO Expert Committee on Drug Dependence procedures also provide an established scientific foundation for evaluating dependence potential, public health risks and therapeutic usefulness.

The proposed rhizomatic approach would build on these foundations without claiming that they already validate the model itself.

Existing schedules could initially remain in place as legal instruments, complemented by dynamic scientific profiles that explicitly identify evidence, uncertainties, relationships and changes over time. The purpose would be to make classification more transparent, revisable and proportionate.

3. Separating enforcement activity from policy effectiveness

Drug policy measures should be assessed on the basis of measurable outcomes, rather than simply on the basis of the intensity of their implementation.

Arrests, seizures, prosecutions and fines demonstrate enforcement activity; they do not independently establish improvements in health, safety or social wellbeing.

France illustrates this distinction. According to the OFDT (French Drug Agency), in 2023, 10.8 per cent of adults aged between 18 and 64 had used cannabis in the previous year, which shows that use persists despite a long-standing prohibitionist framework.

Meanwhile, fixed criminal fines for drug use have become a major enforcement instrument, without their volume alone establishing deterrent or public health effectiveness.

By contrast, France's experience with HIV prevention, sterile injecting equipment, opioid substitution treatment and supervised consumption facilities demonstrates the value of interventions assessed through concrete health outcomes.

ENCOD proposes independent evaluations covering:

- Drug-related mortality, morbidity and infectious diseases.
- Prevention, treatment and harm-reduction accessibility.
- Public expenditure on enforcement, criminal justice and healthcare.
- Human rights, social inclusion and unequal enforcement impacts.
- Medical availability and scientific research.
- Public safety and unintended consequences.

Such assessments should distinguish correlation from causation, identify uncertainties and compare alternative policy approaches wherever possible.

4. A participatory and adaptive international framework

ENCOD proposes that the CND encourage a permanent international process combining scientific reassessment, legal analysis and independent policy evaluation.

This process should involve WHO, independent researchers, healthcare professionals, civil society organisations and people directly affected by drug policies.

It should include:

1. A review of the scientific and historical foundations of international scheduling.
2. An interdisciplinary study of the legal flexibility available under the existing conventions, particularly Article 2(9) of the 1961 Convention.
3. Development and independent testing of a multidimensional rhizomatic classification model.
4. Comparable national indicators for health, social outcomes, expenditure and human rights.
5. Periodic review mechanisms enabling governments to maintain, modify or discontinue ineffective measures.
6. Meaningful participation by affected communities in defining evaluation criteria and interpreting results.

Scientific uncertainty should encourage further research and proportionate precaution, not automatically justify permanent restrictive classifications.

5. Recommendations to the Commission on Narcotic Drugs

ENCOD invites the CND to:

- Commission an independent legal study of treaty exemptions and regulatory flexibility, including the interpretation and potential scope of Article 2(9) of the 1961 Single convention.
- Reassess the scientific coherence of the 1961 and 1971 scheduling systems.
- Initiate research into a dynamic, multidimensional and rhizomatic classification framework.
- Establish independent, transparent and periodic evaluation of national drug policies.
- Distinguish enforcement statistics from evidence of actual policy effectiveness.
- Strengthen evidence-based prevention, treatment and harm reduction.
- Guarantee meaningful civil society participation and the involvement of people who use drugs.

- Promote regulatory approaches that are proportionate to demonstrated risks and consistent with human rights.

Conclusion

The international drug-control system must evolve alongside scientific knowledge, social realities and human rights standards.

ENCOD does not propose replacing one rigid orthodoxy with another. It advocates a more flexible legal interpretation, a more accurate scientific representation of psychoactive substances and a regulatory system capable of learning from its own results.

Article 2(9) of the 1961 Convention, as explored in *High Compliance*, deserves renewed examination as part of a broader discussion on treaty flexibility. A rhizomatic classification model offers a complementary conceptual pathway beyond static and hierarchical scheduling.

In the context of international cooperation, we should retain what has been proven to work, reconsider what is still uncertain, and revise what fails to achieve its objectives.

Drug policy should ultimately be judged not by the severity of its prohibitions, but by its measurable contribution to human health, social wellbeing, individual rights and public safety.

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