

# Sending wrong signal on cannabis use

There are good reasons for Singapore's drug laws. SportSG's decision on national swimmers who took controlled drugs overseas suggests muddled thinking and risks undermining our zero-tolerance stance on drug abuse.



**Eugene K. B. Tan**

For The Straits Times

The extraterritorial reach of Singapore laws has come in for debate recently following the admission by three national swimmers that they had consumed controlled drugs while abroad. Among the issues raised: Is it a case of over-reach by Singapore authorities to apply domestic laws, in this instance the Misuse of Drugs Act (MDA), in such a manner? More broadly, what considerations go into determining Singapore's drug laws? Should international standards apply when they are at odds with our laws?

First, the MDA is not the only domestic law that treats acts done abroad as if they had been committed within Singapore. Other examples include the Prevention of Corruption Act and the Protection from Online Falsehoods and Manipulation Act. The US Foreign Corrupt Practices Act and United Kingdom Bribery Act are examples of other laws with even more significant extraterritorial jurisdiction.

Despite the extraterritorial reach, the MDA does not affect the sovereignty of another state. It does not impose on other countries our zero-tolerance stance on drugs. The Central Narcotics Bureau (CNB) does not and cannot exercise its powers in any foreign country.

Critics of our anti-drug regime fallaciously argue that citizens and permanent residents should be free to do what is legal in another country even if those acts are illegal in Singapore.

With the liberalisation of drug laws in many parts of the world, the MDA would be rendered toothless if it does not apply to Singapore citizens and PRs who consume drugs overseas. It is akin to saying that it is all right to

consume drugs abroad, just do not do it in Singapore.

Such a lacuna in the law would result in a permissive drug culture taking root here. A nuanced reading and understanding of the MDA's extraterritoriality is necessary, as extraterritorial regulation and enforcement take various forms and purposes.

The MDA's extraterritorial reach effectively applies only when citizens and PRs who were abroad return to Singapore and subsequently test positive for illicit drugs. Extraterritoriality is very much about the legal space in which a state and its agents act; for the MDA, that space remains wholly domestic.

Such exercise of legal authority is unobjectionable as a matter of international law and policy. In such circumstances, extraterritoriality is a legal imperative and a state obligation; without it, the MDA is emasculated and Singapore's anti-drug policy a paper tiger.

#### REHABILITATIVE APPROACH

Extraterritoriality is also not at odds with Singapore's rehabilitative approach towards drug offenders who only committed drug consumption offences. Singapore's comprehensive harm prevention strategy seeks to wean drug abusers off their addiction, while still taking a very tough stance towards drug traffickers. It also strives to reinforce a drug-free culture in Singapore, especially among young people, by targeting both drug demand and supply.

CNB's Drug Situation Reports in recent years reveal persistent worrying trends. The 2021 report showed that annually, about one-third of arrested drug abusers were first-time offenders. Among these new drug abusers, about 60 per cent were under 30 years old.

Critics have also argued that Singapore should take a differentiated approach to hard drugs and so-called soft/recreational drugs. Such a position is likely to be self-serving and driven more by the lack of accurate information and/or the peddling of falsehoods about soft/recreational drugs.



There is the dangerous view that the "recreational" use of cannabis is harmless, and that one would not get addicted to it. Independent research, however, has shown that cannabis is a "gateway drug" that could lower the threshold for addiction to other stronger substances such as opioids, says the writer. PHOTO: AFP

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#### HARM REDUCTION VERSUS HARM PREVENTION

Proponents of legalising cannabis use argue that "harm reduction" is superior to "harm prevention". However, the UN Office on Drugs and Crime (UNODC) World Drug Report 2022 offers a cautionary tale. Legalised cannabis use in some jurisdictions appears to have accelerated daily use and related health impacts.

Getting high on harm reduction is a sure recipe for more drug-related problems, including more serious crimes, broken families and deaths. We are in a region where illicit drugs are plentiful and travel abroad convenient. Context matters immensely.

UNODC reported in 2021 that more than 90 per cent of global illicit opium production takes place in Asia. Myanmar,

accounting for 7 per cent of the global opium production, is the main supplier to East and South-east Asian markets. Asia accounts for 62 per cent of the global quantities of heroin and morphine seized.

Thus, Singapore cannot afford to give up on its zero-tolerance approach towards drugs, which has worked well and kept the drug situation under control. Singapore's tough stance on drugs is not at odds with rehabilitating drug abusers and providing them with a second chance and the opportunity to make amends.

#### MUDDLED THINKING

In this regard, the reasoning of Sport Singapore (SportSG), the statutory board overseeing sports in the country, in meting out to the swimmers a one-month suspension of support is highly questionable and worrying.

SportSG stated on Oct 7 that it had considered, among other things, the standards of international bodies such as the World Anti-Doping Agency (Wada) on cannabis. SportSG explained that Wada does not impose any sanctions for the consumption or use of cannabis,

coaine, heroin, and "Ecstasy" outside of competition.

Put simply, outside of competition, no athlete would be found to have used cannabis since Wada does not test for it.

Rather than relying on Singapore's drug laws and norms, SportSG obfuscates the real issues at stake by taking into account Wada's standards when the possession, consumption or use of these four substances is strictly prohibited by our laws at all times and on all persons. It is therefore baffling and troubling that SportSG found Wada's benchmarks relevant.

In recent years, Wada has received stakeholders' requests for cannabis (specifically, delta9-tetrahydrocannabinol, or THC, the main psychoactive compound in cannabis) to be taken off its prohibited substances and methods list.

Although it maintained the status quo on cannabis at its latest executive committee meeting last month, Wada's approach to cannabis has increasingly diverged from Singapore laws and national stance on drugs for at least a decade now. We can reasonably expect Wada's position on cannabis to be even more at

odds with Singapore's legal and policy position in the years ahead.

For example, Wada even allows THC in competition so long as its urinary concentration does not exceed 150 ng/mL, which is consistent with that from a "significantly impaired athlete or a frequent user". Prior to 2013, this threshold was much lower, at 15 ng/mL.

Furthermore, for athletes who test positive in-competition for THC, Wada had from 2021 also significantly reduced the length of suspension from a "potential two (or even four) years previously to as low as one month today for athletes who can establish that the THC use occurred out of competition and was unrelated to sport performance".

Taking SportSG's reasoning to its logical conclusion, should Wada remove THC as a prohibited substance, SportSG would not be able to take action on this ground against athletes who test positive for it. This is despite the consumption of cannabis being against the law in Singapore.

To be clear, this is not a call for heavier sanctions to be imposed on the athletes, who have yet to be disciplined by the Singapore National Olympic Council and the Singapore Swimming Association.

The concern is with SportSG's deeply-flawed reasoning, which is inconsistent with Singapore's stance on drug abuse. It seems to unwittingly provide cover for the cannabis liberalisation narrative that the mind-altering drug is relatively harmless.

There is a patent need for clarity of thinking and robust reasoning among stakeholders, especially public bodies, in dealing with the drug scourge. Our national anti-drug effort requires all key stakeholders to be united by a shared purpose premised on shared values, consistent and coherent approaches.

The costs to society and individuals from a lax approach to and a muddled thinking on drugs are too high to bear. Besides ensuring that our laws and policies are fit for purpose, the relevant authorities must reinforce public consensus on the drug scourge in all sectors of life. But sending mixed signals, amid apparently changing societal attitudes, severely hobbles the fight against drugs.

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