CHAPTER 2

The United Nations and Cannabis Policy

2.1 Introduction

As indicated in the general introduction, in this chapter first we discuss the drug conventions of 1925, 1931 and 1936 which, as a result of the The Hague Convention of 1912 and under the auspices of the League of Nations, were concluded to suppress the production and distribution of (different sorts of) vegetable drugs.

Next we pay attention to those provisions in more recent conventions of the United Nations – more precisely the conventions of 1961 and 1988 – which are the most relevant for the cannabis policy. What do they tell about the production of, and the trade in cannabis and what about the possession for personal use and the use of this drug?

Finally, we examine the development of the discussion about the legalization of cannabis as it is taking place today at the level of the United Nations, especially with regard to the developments occurring in North and South America. Is that discussion creating any room for the legalization of cannabis, in any form whatsoever? Or at least room for a debate about the usefulness or uselessness of such a policy change?

2.2 The Conventions of 1912, 1925, 1931 and 1936

The conventions concluded in 1925, 1931 and 1936 were not the first conventions aimed to reduce, all over the world, the production and distribution of (derivatives of) opium and cocaine. The very first convention of that kind was the The Hague Convention of 1912. This treaty had been brought about mainly at the insistence of the United States and was meant to urge the parties concerned to limit, in the first place in their own countries, the production, the sale and the use of the mentioned narcotic drugs to medical and scientific purposes.¹ The international impact of this treaty should not be underestimated and is demonstrated by the fact that in 1914 it led to the Harrison Narcotic Act, which was intended to restrict the import, production and use of opium in the United States. Moreover, this act became the cornerstone of the drug policy that after the First World War was propagated by the United States with ever more fervour all over the world.²

The first Geneva Convention of 1925 built further on this and included new engagements. The treaty not only aimed to limit the use of the domestic production of opium and cocaine to scientific and medical purposes and to regulate the distribution of these narcotic drugs within that context. It was also meant to tighten, by different sorts of measures, the supervision of the international trade in these drugs, in order to combat the related smuggling and abuse. Furthermore, we should not forget that important parts of the treaty referred to (Indian) hemp (cannabis), and in particular to cannabis resin (hashish).

As to the last-mentioned substances, in article 11, paragraph 1 of the first Geneva Convention it was, among other things stated that, in addition to the measures related to the tightening of the supervision of the international opium and cocaine trade, the parties of the convention committed themselves to forbid the export of hashish and its derivatives to countries where the use of these drugs was prohibited, and to request, in every case in which exportation was permitted, an import certificate from the government of the importing country. In paragraph 2 the parties promised to impede, through effective control, the illicit international trade in cannabis and especially cannabis resin.

Also because the latter provisions in the Geneva convention of 1925 constitute the starting point of the present-day and mainly on the treaty of 1988 based international policy regarding cannabis, it is strange the second Geneva Convention of 1931 did not apply explicitly but only implicitly to this narcotic drug. The 1931 treaty was principally intended as a confirmation of the objectives and measures that were included in the treaties of 1912 and 1925. Anyhow, the treaty of 1931 comprised a number of measures meant to enable a more efficient reduction of especially the production of narcotic drugs. One of these measures was the introduction of quotas per country for the import, export and use of the different (forms of) narcotic drugs.

Often, albeit wrongly, neglected in this context, is the third Geneva Convention of 1936, which aimed to suppress the smuggling of narcotic drugs. This treaty, concluded at the initiative of the Internationale Kriminalpolizeiliche Kommission, forced the parties to promulgate, in line with article 2, the necessary legal provisions “for the severe punishment, notably by imprisonment or other forms of deprivation of liberty” of people who performed, or participated in, whatever kind of actions related to the production et cetera of narcotic drugs that were in conflict with the provisions included in the treaties of 1912, 1925

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4 Société des Nations, 1937, p. 3.
5 In this connection, see also Addens, 1939, pp. 58–92, and Tractatenblad, 1961, no. 152.
6 Tractatenblad, 1959, no. 48.