Reviewer’s report

Title: Scheduling medicines as controlled substances: Addressing normative and democratic gaps through human rights-based analysis

Version: 0 Date: 06 Jul 2019

Reviewer: Alison Ritter

Reviewer's report:

Thank-you for the opportunity to review this submission to IHHR. While I am a drug policy scholar, I am not a specialist in scheduling or the Conventions. I found the submission an interesting and thought-provoking read. The arguments for the application of human rights law (legality, effectiveness and proportionality) are well made to address the normative and democratic deficits in the current international scheduling approaches. I was particularly struck by the neat argument under effectiveness, where distinctions between legal medicines, illegal medicines and illicit drugs each in themselves have arguments for why effectiveness would be undermined with up-regulation (in the case of the first because of decreased access; the second because regulations already exist but require enforcement; and the third because demonstrably the Conventions have not reduced illicit drug markets). I have minor suggestions for improvements: 1. Could examples of how the schedules impact on the availability, accessibility and regulatory environment be made earlier in the piece (around top page 4). Some of this text appears later, but it would be preferable to clearly state the "on the ground" implications of a medicine/illicit drug being scheduled under the Conventions. A short description of the four schedules and the kinds of restrictions would also aid an unfamiliar reader. 2. Page 7 line 5-6 "requires treaty amendment to repair", may be better expressed as "requires treaty amendment in order to be repaired". 3. "they also hinder the provision of sufficient justifications.." (page 3) is a difficult sentence. 4. the long list of references are distracting (page 4, for example). I can see that INCB annual reports, UNODC WDR annual reports and WHO determinations are all relevant, but it could be better crafted regarding the references. For example the WHO reports for each drug could appear in turn after each drug is mentioned; the INCB reports could come directly after mention of the INCB (bottom page 4). For example "Annual reports of the International Narcotics Control Board (19-25) and the annual UNODC WDR (27-29) etc.. 5. Page 12, lines 47-49 it would be helpful to insert a reference supporting the claim that "large body of research on the negative effects in terms of availability and accessibility afterwards"

Are the methods appropriate and well described?
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