

# The Cannabis Policy and Its Key Factors that Encountered the Royal Thai Government: Analysis on Its Impacts and Government's Preparation

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## Introduction: Prologue of the Problem

The status of cannabis in Thailand has drastically changed during the past few years due to the amendment of the Narcotics Control Act (No. 7) 2019 and the Narcotics Code 2021. Cannabis has different status ever since, especially the issuance of the Ministry of Public Health's Notification on Identification of Narcotics Drugs, Category V Specifying the New Definition of Cannabis which differs from the previous one and lead to the change in composition and behaviors related to cannabis which used to be illegal become legal. Cannabis plant cultivation, trade and consumption have become prevailing, at the same time, the Act on Cannabis and Hemp B.E... was drafted to drive for the clear policy on cannabis and hemp which could best support the policy level.

Since drug problem is a global challenge which every country has given priority to address it by setting up mechanism, policy, common agreement, conventions on various collaboration which all concerned countries should comply and they are considered as commitments. The cannabis policy and its implementation are one of the commitments on drug, to implement that commitment has become the policy issue related to the new cannabis policy, it is a highly vital issue as being a state party of those commitments.

Therefore, the new cannabis policy is the issue that the Royal Thai Government should give priority on. This is not an issue for any one government as government term will end and change as according its tenure so no matter whichever governments, they have to encounter this problem more or less, as a responsible state party of the international conventions on drug control.

This article shares views on the UN conventions on international narcotics drug control, which are considered as the external factors that may affect Thailand's public policy on cannabis by considering the substantive issues, observation points, and processes of implementation as according to the conventions towards the countries of which their policy may not be in conformity with the conventions. However, these processes need time to implement in each country, if the countries have the preparation and are ready to respond to such process, it will be beneficial to them.

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## The Status and Conceptual Framework on Cannabis: 3 Conceptual Frameworks

The conceptual framework on cannabis is a key issue in specifying the status and the policy on cannabis to which direction they should go. It has to be accepted that during the past ten years, the conceptual framework on cannabis in Thailand, cannabis was considered as a narcotic drug, thus, the status and policy implementation towards cannabis were carried out as a narcotic drug. Recently, the stream of thought on cannabis in Thailand has changed, more people believe that cannabis is not a narcotic drug. This has high impact on cannabis control implementation, when public policy is newly defined leading to the amendment of regulations, notifications and drafting of the new act to support this conceptual framework.

Currently, there are 3 key conceptual frameworks related to cannabis which could be summarized as the followings;

**The first framework, cannabis is a narcotic drug.** This is the main conceptual framework during the past ten years, this stream of thought still exists, though at a lower level.

**The second framework, cannabis is a narcotic drug** but has many benefits, especially in terms of medical, science and research, etc. This has been the main stream of thought since 2018, which has led to the driving for the enactment of the Narcotics Control Act (No. 7) 2019 and resulting in the utilization of cannabis for medical, study, research and scientific purposes.

**The third framework, cannabis is not a narcotic drug.** It can be utilized widely by extending the use in community way of life, in household, in the fields of economy and industry, etc. This conceptual framework was pushed into public policy by the Ministry of Public Health's Notification on Narcotic Drugs Category V, and

the Draft Act on Cannabis and Hemp B.E..., which has led to the tremendous change in the country's policy on cannabis. This conceptual framework has been driven by political level, which is the main stream in driving for the current cannabis policy. The cannabis issues in various angles were debated extensively on cannabis public policy.

## Whether Cannabis is a Narcotic Drug: Who is the Regulator

The current stream of thought on cannabis in Thailand which has impact on public policy is the conceptual framework on whether or not cannabis is a narcotic drug, of which various social groups have different thoughts. This difference affects situation and condition of the problem, impact and related laws. The more that difference affects the formulation of public policy, the wider it creates impact on society.

The key issue which should be taken into consideration is who will be the regulator to define whether or not cannabis is a narcotic drug or when it is regulated, it should be accepted by all parties. What is the process of regulating, are there any related factors, be it international or local factors which will be more complex and complicated; if those factors are not taken into consideration carefully, it will have impact on the public policy more or less.

When talking about the setting up the public policy on narcotic drugs of any one state, since drug problem is an international problem which has impact world-wide, therefore, the United Nations as the organization mechanism organization and the center of global cooperation, defines that drug problem needs joint collaboration from all countries to be in the same direction toward the common principle and target.

Since drug problem is considered as an international problem, the United Nations set up

responsible mechanism, common agreements which will help driving the tackling of drug problem of various countries to be in the same framework and direction with the following key factors;

**1. The responsible mechanism and organizations,** the United Nations assigns the responsible mechanism and organizations on drug as followings;

1.1 Economic and Social Council/ECOSOC is 1 of the 6 main pillars of the United Nations which is responsible for tackling the economic, social, traditional, educational problems etc., which includes drug problem, other sub-organizations were set up.

1.2 The International Narcotics Control Board (INCB) which is set up as a semi-judicial organization with the responsibilities in providing advice, following up the implementation in tackling drug problem of all member states of various international conventions whether they comply with those conventions, and international agreements and may take appropriate measures for the parties that do not comply with those conventions.

1.3 Commission on Narcotic Drugs/CND which is mechanism of ECOSOC in the field of narcotic drugs, it comprises the responsible agencies of various countries serving as Commission in assuring that the implementation is in consistent with Conventions as well as jointly considers the resolutions on issues raised by the member states for adjustment and revision. When resolution on any drug issue come out, the member states world-wide have to follow and take action.

1.4 World Health Organization/WHO, a specialized organization of the United Nations which works closely with INCB in considering the issues on narcotic drugs which need to be controlled by Conventions. It is also responsible for providing recommendations on scheduling narcotic drugs.

The above-mentioned mechanism and organizations have played vital roles in formulating the global narcotic drugs policy for the State Parties of the United Nations to use as guiding measures to create the power in jointly tackling drug problem of every country through close collaboration which contains working system and many details.

**2. Joint International Agreements or the Conventions on Narcotic Drugs Control,** the mechanism which will assure that all countries world-wide have policy, and measures to tackle drug problem which should pass through 3 international conventions on narcotic drugs, which every country should adhere to as international commitments. The three conventions are as followings;

2.1 The Single Convention on Narcotic Drugs 1961 as Amended by the 1972 Protocol Amending Single Convention on Narcotic Drugs 1961.

2.2 The Convention on Psychotropic Substances 1971.

2.3 The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

These 3 conventions are similar to drug constitution which all countries have unanimously agreed upon in jointly cooperating to tackle drug problem, including Thailand which also serves as a State Party which has agreed to all the 3 Conventions, which is considered as an external factor towards Thailand's public policy on narcotic drugs.

These 3 Conventions mention on what are narcotic drug, what are psychotropic substance, how they are categorized, what are measures, approaches and implementing tools, missions of the member states as well as order and approaches towards the member state which fails to implement as according to the provisions in these Conventions.

As a result, defining what are narcotic drugs and what are psychotropic substances, how many categories, the issues which are defined in these conventions are to assure that they will be used by each member state. The scheduling of narcotic drugs and psychotropic substances came from the specialized resource persons, and qualified persons who have made clear study researches and have been approved by the mentioned concerned mechanism and become the measures for all member states to comply with.

### **The Conventions which Related to Cannabis: the Issues that Need to Be Well Understood**

1. The brief substantives related to cannabis in the Single Convention on Narcotic Drugs 1961 as Amended by 1972 Protocol Amending Single Convention on Narcotic Drugs 1961 which covers all narcotic drugs and comprises 51 articles, which can be drawn out only the part related to cannabis as following;

1.1 In the Preamble of the Convention, it focuses on the concern on health and welfare of human-beings who should be aware of the medical use of narcotic drugs which are necessary to relieve pain and suffering, anyway it requires the provisions to guarantee that the narcotic drugs shall be used for the benefit in medical and science use only. It also needs to be aware that the severe damage of narcotic drugs towards consumer and it is considered as a social and economic crime which is a harm to human-beings. Therefore, it requires effective measures and close coordination among state parties world-wide in order to share the common principle and goal.

1.2 Regarding the responsible mechanism, it defines that International Narcotic Control Board is the responsible mechanism and has

responsibilities in monitoring, following up, supervising the member states to comply with the Conventions, as well as to prevent the member states to violate or do not comply with the Conventions.

1.3 In the field of the status of cannabis, this Convention specifies that cannabis is a narcotic drug by defining that cannabis includes flowering or fruit attached to top of the cannabis plant, cannabis plant in the genus of cannabis, cannabis trunk, cannabis leaves and cannabis resin.

1.4 Regarding cannabis cultivation, the Convention clearly defines control measures which are the same measures as the control of opium and coca, which are as followings;

1) The state parties are not allowed to cultivate cannabis plant which is an appropriate measure to protect health and welfare of the people and to prevent the illegal use of it.

2) The state parties should use suitable measures in seizing the illicit production and destroying it in exception that it is a small amount which is aimed to be used for scientific and research purposes.

1.5 In the field of cannabis control, which is defined for the state parties which allow for cannabis cultivation need to put in place the following controlling measures;

1) The state party which is permitted to grow cannabis for producing cannabis or cannabis resin, needs to put into place the control measures as same as on opium plant as being defined in the Convention.

2) The state party should define necessary measures to control cannabis to prevent it from being abused, illegal trade of leaves or cannabis plants.

1.6 On utilizing the control measures of opium plant for the case of cannabis for the

state party which is permitted to grow cannabis, as specified in the Convention, the following actions should be carried out;

1) Having the central agency or responsible agency to look after this issue specifically as same as the control of opium poppy cultivation, and it should be only one responsible agency.

2) Specifying the area for cannabis cultivation and the details of the area of cannabis cultivation should specify coordinator for the sake of monitoring and controlling.

3) The cannabis cultivator should receive permission from the central agency set up by the government and there should have clear permission license specifying the cultivation area.

4) The permitted cannabis cultivator should sell their products to the central agency set up by the government in order to monitor, take care of suitable market price and further trade to the factory that will manufacture it into cannabidiol.

5) The central responsible agency which is set up by the government has the absolute right in storing, import, export and monitoring the use of cannabis for medical, study and research purposes.

1.7 Other measures which have to be implemented as according the above-mentioned commitments, the Convention also defines the details of the implementing measures in different stages which should be carried out by the state parties, namely

1) The estimation is carried out for the demand of each year related to the volume of cultivation, production and the use for medical and other purposes.

2) Providing the statistical data to INCB annually on the volume of production, usage, area, import and export etc.

Besides, it will be related to import-export, licensing, control of production, trade, export, having in possession, monitoring, keeping, checking and seizure, etc.

1.8 The measures to ensure that implementation procedure will be in consistent with the provisions in the Convention which are the measures defined by INCB for state parties or member states which do not perform according to the Convention or may cause severe damage towards the objectives of the Convention. The implementation measures and approaches towards that state party are defined respectively with the following steps and proceedings;

1) If there are information, evidences from the examination by the organization under the United Nations, specialized organization and advisory organization in the Economic and Social Council etc. which are reported to INCB and they are information, data and evidences which can be ensured that they will be harmful to the objectives of the Convention, due to the failure of a state party or member state, which can be the beginning of further working process.

2) If INCB deems that the failure of a state party or member state, will become the center of problem on illegal cultivation, manufacture, import, transit or consumption of narcotic drugs which is considered as a risk, INCB has the authority to propose to the concerned government to open the consultant with the INCB or to request for information and explanation from such government or to recommend to have the dialogue with such government, this process will be secretly carried out.

3) After the above-mentioned process, in case of necessity, INCB may invite the concerned government to adjust, revise, improve control measures in order to comply with articles of the Convention.

4) In case that it deems necessary, INCB may purpose to the concerned government to consider making a clear study on the issue. INCB is pleased to provide expert both in persons or group of persons who have expertise, or may provide assistance and support to such government. After the result of the study comes up, such government has to coordinate with INCB to proceed as according to the study as necessary and appropriate.

5) In case that INCB finds that such government cannot give satisfactory explanation or cannot improve, revise the control measures as being requested, or the situation becomes worse and needs international cooperation to overcome the problem, INCB may furnish the problem to that member state, Economic and Social Council and Commission on Narcotic Drugs, respectively. ECOSOC may furnish the problem further to the United Nations General Assembly to jointly work for solution.

6) INCB may recommend to ECOSOC and Commission on Narcotic Drugs, to request all member states to suspend the import and the export of drugs in various schedules to such country.

**2. The brief essence related to cannabis in Convention on Psychotropic Substances 1971**, is considered to have its structure and substantives which focus on the control measures on psychotropic substances, the details are as following;

2.1 Cannabis which is controlled under this Convention such as Tetrahydrocannabinol (THC) in Schedule I and Dronabinol in Schedule II.

2.2 All member states should have the commitment to control as according to the Convention in terms of designed producer, trader with licenses in different procedures such as limitation on medical and scientific use, management by special organization, license,

medical prescription, advertisement, warning on label of package, terms on international trade, ban and limitation on import and export, control measures on manufacturer, importer, exporter and abusers.

2.3 The measures to comply with the Convention in case that state party or member state violates or does not comply with the provisions of the Convention, working steps and procedure towards such state party and member state are put in place in the same manner as in the Single Convention on Narcotic Drugs 1961.

**3. The brief essence on cannabis in the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988** focuses on demolishing the structure of illicit traffic in narcotic drugs and psychotropic substances, the details are as following;

3.1 Regarding intention, it focuses on the implementation against the illicit traffic in narcotic drugs and psychotropic substances which is considered as international crime with infiltration of transnational crime syndicates, causing derogatory and undermining the structure of business, trade, finance and society at all levels. The Convention promotes the international cooperation in the suppression of the illicit traffic of narcotic drugs and psychotropic substances as well as strengthens the suppression measures.

3.2 On cannabis and its circumstances which are considered as offence, comprises the followings;

1) Cannabis refers to any plants in the genus of cannabis.

2) Manufacture, process, extract, cook, offer, sell, distribute, trade, delivery on any conditions, serves as agent in sending, transit, import or export violate the provisions of the Single Convention on Narcotic Drugs 1961.

3) Cannabis cultivation with the objective to produce narcotic drugs that violates the provisions of the Single Convention on Narcotic Drugs 1961.

3.3 On the penalty determination for the goal to suppress illicit drug trafficking syndicates, all state parties and member states should define which penalty types in the Convention to be the key tools which are as following;

1) Management, processing or transferring asset despite knowing that the asset comes from an offence or gains from conspiring or concealing, hiding, covering up the asset are considered as an offence.

2) Instigating, openly persuading, taking part, involving or conspiring, attempting to execute and helping, instigating, supporting, facilitating, providing advice to commit an offence.

3) Having in possession, buying or growing of narcotic crops etc. for personal consumption which violate the Convention, are considered as an offence.

4) The offences which are considered as severe offences are the offences which related to crime syndicates with organizing offender, international organizing, offence in other laws, offence which uses violence of weapon, offence which related to government position, and offence that causes the young people to suffer.

5) Apart from determination of punishment and offences, other measures should be used, namely treatment, education, tending care after treatment, rehabilitation and social reintegration.

3.4 The measures which are tools for the suppression by requesting state party or member state to suppression measures as according to the Convention which comprise asset seizure, extradition, mutual legal assistance,

transferring of prosecution, international cooperation and assistance for transit state, control delivery, the measures to control apparatus for manufacturing narcotic drugs, as well as the measures to control sea transportation and mailing. Those will be the tools for the suppression of drug traffic syndicates.

3.5 On the eradication of illicit narcotic crops cultivation and elimination of illicit demand, state party and member state should carry out appropriate measures to prevent the illicit narcotic crops cultivation and the measure to eradicate narcotic crops as well as to provide support for area development integration to replace narcotic crops cultivation.

In conclusion, these 3 Conventions are considered as commitments that all state parties and member states have to comply with both in the forms of defining as law or other measures so that they have the same direction in execution. With regard to cannabis, its definition is specified that it covers which parts and the implementation measures that state party has to comply with both in the part of cannabis plant, cannabis behaviors and cannabis dealer group which is criminal syndicate, as well as the measures for state party and member state which does not comply with the Conventions.

### **All the 3 Conventions and the Analysis on Thailand's Cannabis Policy: the External Factors Which May Impact on Thai State's Cannabis Policy**

If considering the background, process and the result of all the 3 Conventions, they are considered as weighty external factors to all state parties, hence, to set public policy on narcotic drugs of any state party, priority should be given to those 3 Conventions. If putting far less weight on external factors it may possibly result in other ways.

In case of the Thai state that defines and improves cannabis public policy recently, if analyzing and comparing with the 3 Conventions to consider whether or not the improvement of that public policy complies with the 3 Conventions, is the most vital issue. Anyway, in the angles of various organizations in Thailand, they have 2 different opinions, the first opinion is that Thailand's cannabis public policy complies with the 3 Conventions, another opinion is that the policy is controversial with the 3 Conventions. The difference of these opinions has impact on Thailand's cannabis public policy.

According to the comparative analysis on the 3 Conventions with Thailand's cannabis public policy which is reflected in the new draft act, notification and order of the concerned mechanism, there are 10 issues showing compliance or controversy which needs to be debated, the details are as following;

**The 1<sup>st</sup> issue, the conceptual framework on whether or not to define cannabis as a narcotic drug**, is the vital basis which shows the compliance or controversy between the 3 Conventions and the Thai state's cannabis public policy.

1.1 All the 3 Conventions define that cannabis' Inflorescence, leaves and resin are considered as narcotic drugs by being written clearly in the definition and in various measures.

1.2 While defining the status of cannabis in Thailand, the policy and the law define cannabis as a narcotic drug, until the important change of cannabis policy when the Act on Cannabis and Hemp B.E.... is drafted, cannabis is no longer considered as a narcotic drug as according to the Narcotics Control Act and the Narcotics Code, cannabis has become an herbal plants, herbal products, cosmetic products or other products.

That conceptual framework on cannabis has led to the formulation of implementation measures, regulations, working tools, control, examination which are different as according to the conceptual framework, etc.

**The 2<sup>nd</sup> issue, the objectives of making use of cannabis** by

2.1 All the 3 Conventions have clearly defined that cannabis can be utilized for the medical, study research and scientific benefits only, it is not extended to use it for other purposes.

2.2 The current cannabis policy of the Royal Thai Government still supports the utilization of cannabis for medical, study research, and scientific benefits which complies to the conventions, anyway, Thailand is extending the objectives of the utilization of cannabis as according to the new act by defining cannabis as an economic crop which can be used for economic, commercial, industrial, household benefits as well as for community's way of life.

The extension of the objectives of cannabis utilization can be carried out and whether or not it complies with the Conventions is considered the key issue of cannabis policy.

**The 3<sup>rd</sup> issue, cannabis cultivation in household** is the new cannabis policy and it is the important issue of the Thai state towards the 3 Conventions.

3.1 According to the conventions, as cannabis is defined as a narcotic drug so cannabis is prohibited to be cultivated in exception that the cultivation is for medical, study research and scientific benefits, which needs the clear working process, and limitation of cultivation area to be only few plots.

3.2 The Act on Cannabis and Hemp B.E..., defines that cannabis can be grown in household at limited quantity, it also defines



qualification of cultivator, registration for cannabis cultivation, licensing, cultivation and measures against those who violate the law, etc.

The cannabis cultivation in household will be a vital issue which reflects whether or not the policy complies with the 3 Conventions, and it is a highly sensitive issue.

**The 4<sup>th</sup> issue, on circumstances of person towards behaviors on cannabis**, namely consumption and having in possession, have the following issues;

4.1 The conventions define that cannabis is a narcotic drug, hence, various behaviors both in terms of having in possession, consumption etc. cannot be done as there is legal punishment.

4.2 While the new policy reflects from the draft act, though some consuming behaviors, having in possession are considered as offence but it provides an opportunity for consumption and having in personal possession which to be done such as it is done in private and personal place.

**The 5<sup>th</sup> issue, cannabis consumption for recreation** which is considered an important policy as following issue;

5.1 The Conventions define that cannabis consumption for recreation is a cannabis abusing behavior which cannot be done as it will lead to cannabis epidemic and it will impact society and community.

5.2 According to the new act, prohibition is made on cannabis consumption for recreation and prohibition to consume cannabis in public place, but it does not prohibit to consume cannabis in private place, household, or personal use which can be done without guilty.

**The 6<sup>th</sup> issue, supply chain management** which is a vital issue in controlling supply chain by

6.1 The Conventions define that supply chain management both in international trade in the country and international trade with other

countries by defining the quantity of cultivation, informing the local cultivation area and informing INCB, having a central responsible agency, selling products to the central agency etc. in order to keep balance of the supply chain.

6.2 As for Thailand's new policy, some supply chain pictures may not be clearly seen such as at household level which cannot control the whole supply chain and what roles the central agency play in the whole processes.

**The 7<sup>th</sup> issue, on cannabis dealer groups in the black market** both locally and internationally, which is a highly sensitive issue, therefore, the special Convention to deal with the issue was drafted, namely the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 for all state parties and member states to cooperate in tackling these trafficking syndicates with the following issues;

7.1 The Conventions define that drug trafficking groups both locally and internationally are transnational criminal syndicates which need to be seriously suppressed and define cannabis trading groups especially the international ones which connect with drug criminal syndicates.

7.2 The new policy in this new act, since cannabis is no longer considered as a narcotic drug, so how to deal with the cannabis trading groups in international black market which have connection with cannabis trading groups in Thailand has not been mentioned.

This issue is vital towards the evaluation on compliance, whether or not it complies with the provisions in the conventions and Thai state's policy.

**The 8<sup>th</sup> issue, utilizing drug suppression tools to suppress cannabis trade**, which comprises the following significant issues;

8.1 According to the Conventions, when considering narcotic drugs trade including cannabis as criminal syndicates, all state parties

and country members use the narcotic drugs suppression tools towards those groups by enacting the special law and measures such as asset seizure, delivery of narcotic drugs under control, legal assistance between each country, extradition etc. Those tools are for coping with the structure of narcotic drugs syndicates. The Conventions define that all state parties and member states are to take action in their countries and to connect internationally.

8.2 The new policy as according to the mentioned act, it does not define the suppression tools as according to the Conventions since cannabis is removed from the Narcotics Control Act, the suppression tools in the Narcotics Control Act cannot be used for suppressing cannabis trading groups in the black market.

**The 9<sup>th</sup> issue, the measures to control and to examine for the prevention of cannabis abusing** by

9.1 According to the Conventions, all the state parties and member states should give priority to define effective measures in preventing cannabis abuse in terms of cultivation, having in possession, consumption etc. when any state party causes serious situation and cannot control the situation, INCB will have appropriate implementation measures to prevent the severity of the situation which may get worse both by improving policy, measures or amending the law as according to the cause of the problem, on case by case basis.

9.2 According to the new policy which emerges before having the act or in the next stage, may have risk in controlling and checking measures which can lead to the increasing seriousness of cannabis situation such as the control of cannabis cultivation in household, the prevention of the diversion of household cannabis to illicit channel outside which will lead to more cannabis abuse. If such situation occurs, how to deal with it.

**The 10<sup>th</sup> issue, the significant gap which resulted from the new policy on cannabis by the Thai state,** how it will affect the cannabis situation under the terms of the new policy, many questions are such as;

10.1 Whether the cannabis cultivation in household will affect the quantity of cannabis cultivation, the increasing spread of cannabis, whether or not cannabis abuse will increase, and whether or not the control and checking measures have any weak point.

10.2 Whether cannabis trade in the local black market which connects with international market will extend or not and which measures or tools will be used to stop these trades.

10.3 Whether other member states both within and outside the region will receive any impact or not and how.

10.4 Whether Thai state will open the niche for the international cannabis trading groups to work in Thailand or not and what the prevention measures are and how it can be prevented.

To sum up, those 10 issues are the comparative analysis between what are stipulated in the 3 Conventions and what are going to happen with the new cannabis policy of the Thai state, without pointing out which issue complies or does not comply with the Conventions, as the one who can decide is INCB as the central mechanism of the overall picture. More importantly, there are reason and explanation of the representatives of the Thai state on the new policy whether or not they can give sufficient reasons, which may possibly lead to the new solution.

## **Classification of the Public Policy on Cannabis of Other State Parties and Comparison**

### **1. Classification of the Public Policy Group on Cannabis of the State Parties**

The public policy on cannabis during the past several years of various state parties has greatly changed, according to the summarization and classification of the public policy on cannabis of various state parties, there are 5 groups which have different policies on cannabis as followings;

**The 1<sup>st</sup> group**, the group of state parties which still considers cannabis as a narcotic drug, illegal and ban its utilization without any exception. Any one sells, has in possession or consumes cannabis, they are considered guilty and will receive criminal penalty. Most state parties adhere to this group of policy especially several state parties in Asian Region, such as Afghanistan, Bahrain, Brunei Darussalam, Indonesia, Japan, Iraq, and Malaysia.

**The 2<sup>nd</sup> group**, the group of state parties which considers that cannabis is a narcotic drug, illegal but decriminalization is used on cannabis case such as cannabis consumer will be fined without having to receive criminal penalty, but cannabis trader still receives criminal penalty, some European countries are in this group, such as Belize, Bolivia, Dominica, Moldova, Paraguay, and Saint Lucia.

**The 3<sup>rd</sup> group**, the group still considers that cannabis is a narcotic drug but cannabis is allowed to be used for medical purpose, namely permission for dispensing and consuming cannabis or permission for the patient who has medical indication and has medical certificates issued by a doctor, that person can grow cannabis for self-curing but needs to ask for permission as according to the rules to prevent other people to grow cannabis and to use it for recreation, such as Lebanon, Lithuania, New Zealand, North Macedonia, and Norway.

**The 4<sup>th</sup> group**, the group which considers cannabis is not a narcotic drug but has strict control of cannabis abusing such as limiting the quantity of possession, forbidding the youth to consume it, ban on the sale to the youth, ban on advertisement, driving ban if consuming

cannabis, and tax measures etc, such as Canada, some states in U.S.A., and Uruguay.

**The 5<sup>th</sup> group**, the group does not consider cannabis as a narcotic drug but allows for market trade to have free competition, cultivation, sale and advertisement or rather liberated.

## 2. Comparison with the Conventions and Implementation

The public policy on concerning those 5 groups when comparing to the 3 Conventions, there are the following key issues to consider;

**The 1<sup>st</sup> issue**, in compliance with the Conventions, it is found that the 1<sup>st</sup> group and the 2<sup>nd</sup> group greatly comply to the Conventions.

**The 2<sup>nd</sup> issue**, principally in compliance with the conventions, but some characters have the risk on the agreement in the Conventions especially on the issue on cannabis cultivation which has been extended to personal and household use levels, though for medical purpose as it has risk on controlling measure to prevent the diversion or abuse, which is the 3<sup>rd</sup> policy group.

**The 3<sup>rd</sup> issue**, not in compliance with the Conventions, which is the 4<sup>th</sup> policy group, the key issue is the removal of cannabis from narcotic drugs category, anyway, controlling measures and prohibition for cannabis abusing, considerations of this group relies upon the effectiveness of controlling and checking measures.

**The 4<sup>th</sup> issue**, seriously violates the Conventions, which is the 5<sup>th</sup> policy group which focuses on cannabis free policy and increasing the utilization of cannabis extensively.

The group of state parties in the 4<sup>th</sup> group and the 5<sup>th</sup> group have high opportunity to be taken into action by INCB as according to the implementing steps specified in the Conventions which include finding additional information, sending document, sending expert to analyze, evaluate and provide recommendations etc. Many countries are in this process such as Canada, USA and Uruguay.

3. The Comparison of the Ordering of the Thai State's Public Policy on Cannabis, it can be classified into 4 phases as following;

**The 1<sup>st</sup> phase** which is in the 1<sup>st</sup> policy group of which cannabis is considered as a narcotic drug, it has criminal penalty in various offences, which is the longest time policy.

**The 2<sup>nd</sup> phase** which is in the 3<sup>rd</sup> policy group of which cannabis is still considered as a narcotic drug, but it is allowed to be used for medical purpose. This period starts from the issuance of the Narcotics Control Act 1979 (No. 7) in 2019 which was effective on June 9, 2522.

**The 3<sup>rd</sup> phase** transitional period, which is considered as the phase that cannot be clearly grouped between the 3<sup>rd</sup> group and the 5<sup>th</sup> group. It is the period from June 9, 2022 (The period when the Public Health's Notification on Specifying the Narcotic Drugs in Category V) until before the draft Act on Cannabis and Hemp B.E....comes into effect, during this period, cannabis is still considered as a narcotic drug in category V but has limited the definition of cannabis to refer to only cannabis extracts which are still in the Narcotics Code, apart from that, such as cannabis inflorescence, cannabis trunk, dried cannabis are not included in the Narcotics Code. This leads to the fact that those parts of cannabis can be put into the 5<sup>th</sup> policy group which can be managed freely from the narcotics acts.

**The 4<sup>th</sup> phase** future phase, after the enactment of the Act on Cannabis and Hemp B.E...., which cannot be clearly classified into which policy group, whether the Thai state will bring cannabis into which policy group as there are variances from the drafting of the mentioned act and the changing in political policy. It is possible that it will be classified into the 4<sup>th</sup> policy group or combined between several groups which currently cannot be evaluated.

### Preparation to Handle with the External Factors of the Thai state from the Adjustment of Cannabis Policy

According to the order of public policy on cannabis of the Thai state, it is expected that there are several issues which are related to whether or not they comply with the 3 Conventions, it is, therefore, necessary to have the story to find clear solution as this problem related to the international commitments which the Thai state signed long time ago and they are considered as external factors which the Thai state should give priority to. These external factors will play more roles when the Thai state has clear position on cannabis public policy, and put into place the law to support the policy and the impact etc. These external factors are under the responsibility of INCB, the main mechanism, it is, therefore, inevitable. The Thai state's implementation measures and preparation can be evaluated into the following 4 steps;

**The 1<sup>st</sup> step, data collection** which includes data, policy, measures and acts of the Thai state on cannabis to conduct study and find fact, make the right understanding which can be done by requesting for document through various channels or discussion or direct coordinating with the mechanism of the concerned parties both locally and internationally. At this phase, the Thai state should completely support the document, policy and laws, as well as it should be ready to discuss and coordinate with the assigned INCB's representative.

**The 2<sup>nd</sup> step, submission of the proposal and consultation on the risk issues**, when INCB studies, analyzes and concludes the findings on the Thai state's policy resulting in the problems of cannabis cultivation, manufacture, having in possession, import, export, sale and illegal consumption, INCB may consider to open channel for discussion with the Thai state on those

noticeable issues. The Thai state should give sufficient reasons and explanation. It is estimated that there may be about 10 issues which should be fully prepared or there may be more or less issues.

**The 3<sup>rd</sup> step, consideration of the Thai state whether or not to execute as according to the recommendations and how,** in this step if it is summed up that the Thai state complies with the Conventions. The cannabis issue has the clear solution. If, on the country, it is summarized that the Thai state violates or breaks the Conventions in which issue and requested the Thai state to comply with the Conventions, at this point, the Thai state has 2-3 options, namely;

**The 1<sup>st</sup> option,** the study may be conducted to make additional on the cannabis policy by cooperating with INCB to send expert to give recommendations and advice to develop into the conclusion again.

**The 2<sup>nd</sup> option,** to make adjustment as according to the recommendations of INCB (Some parts or all) by the Thai state to revise namely, formulating new policy, amending of the law and devising new measures etc.

**The 3<sup>rd</sup> option,** not to follow the recommendations of INCB, to confirm with the set policy, no change especially it is the essence of the new adjusted cannabis policy.

**The 4<sup>th</sup> step, INCB's measures towards the state party which does not comply with the recommendations,** which is considered as

the maximum sanction measure defined in the Conventions to take action with the violating state party, namely suspension of import and export of drugs in various categories and reporting violation of any state party towards ECOSOC, Commission on Narcotic Drugs and the United Nations General Assembly. Though this step is never carried out before, but it can be possible more or less. If there is any state party seriously violates the Conventions, most importantly, if any state party must encounter this kind of situation, its fame and integrity will be damaged world-wide.

Each above-mentioned step is the time-consuming process which will take several years, it does not end up quickly. The process on discussion and consultation to find solution before the end of the steps especially each state party always changes government, which will certainly have impact on public policy on various issues as well.

## Conclusion

The Thai state's public policy on cannabis is considered as a significant policy change on narcotic drugs which has impacts on both external and internal factors. The setting of public policy which takes into consideration all factors will lead to appropriate policy balance, which all parties concerned should be aware and to support the change of the public policy to achieve its ultimate goal and beneficial to all parties without losing balance.