

GDPO Situation Analysis

October 2016

Ganja in the English-speaking Caribbean: From Security Threat to Development Opportunity

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Subject: Cannabis (ganja) legislation in Jamaica

In 2015 Jamaica implemented substantial reforms to its Dangerous Drugs Act. Cannabis possession of up to two ounces was made a ticketable offence and cannabis cultivation up to five plants, cannabis use in private homes is no longer an offence, and consumption by persons of the Rastafarian faith, for medical, therapeutic and scientific purposes is permitted.

Future developments depend partly on decisions in the US, including the referenda on cannabis legalisation in Arizona, California, Maine, Massachusetts and Nevada. Small, developing island states like Jamaica are exposed to policy shifts by the regional hegemon. Less attention is paid to the European Commission which is the largest development donor in the Caribbean region and has been active in drugs policy for decades. There is a ready opportunity for switching towards a development oriented policy.

Jamaica and cannabis globalisation

Drug policy has figured large in the way the Caribbean has engaged with the rest of the world. By accident of geography, the region became entangled in the cocaine traffic from Latin America to North America and Europe, but also because of its own history. Cannabis, known as ganja, arrived in the mid-19th century with Indian labourers transported to Jamaica, Trinidad and Guyana to provide agricultural labour after the abolition of slavery in 1834.² In Jamaica members from the majority population of African descent, who were politically disenfranchised, economically marginalised and socially disaffected, appropriated ganja to celebrate their non-European heritage. The crop was integrated into the rural economy and its use

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² Mills, James. *Cannabis Britannica: Empire, Trade, and Prohibition 1800–1928*. New York: Oxford University Press. 2003.

coincided with the spiritual awakening that produced the Rastafari religion.³

Regarding cannabis culture, Jamaica provides a test case for the importation, integration and assimilation of a psychoactive commodity, a process that has since been repeated all over the world. Ironically, both ganja and Rastafari have become globally recognised symbols of Jamaican identity.

Yet Jamaica was also a pioneer of drug policy, introducing repressive measures and rationales that throw an interesting sidelight on the pretensions of drug control. The 1913 Ganja Law of the Legislative Council addressed the anxiety of the ruling plantocracy over the 'dangers of ganja smoking among the natives of this colony'.⁴ It was not impairing the medical condition of the smoker that motivated the legislator, but his political discontent and social unconventionality. In a series of amendments to the Dangerous Drugs Act of 1925,⁵ the colonial government increased penalties for ganja consumption and possession, with no pretence of having an interest in public health. In Jamaica drug control was from the start about policing dangerous population groups, often 'using terrorist attacks to ensure compliance of the citizenry'.⁶

Despite ganja becoming entrenched in Jamaica, governmental authorities have resisted coming to terms with reality. The vision of a 'drug free society' still inspires the National Council on Drug Abuse and many senior members of the Jamaica Constabulary share the views of T. Calver, a Police Commissioner during the 1950s who associated ganja with sexual assaults, violence, robbery and theft.⁷

Policing has therefore been out of step with Jamaican reality for decades, putting a strain on the relations with the public, aggravating social tensions and placing a severe burden on the entire criminal justice system.⁸ Attempts at reform reach back to the 1970s and was first articulated by musicians and artists. From the mid-1990s supporters like People's National Party MPs Raymond Price and Paul Burke passed resolutions for legal reform that called the National Commission on Ganja into being in 2000. After extensive consultations, the commissioners recommended decriminalising cannabis possession and small scale cultivation. The US ambassadors immediately warned of the consequences prompting the Jamaican government to shelve the report.

European Union involvement in Caribbean drug control

US law enforcement became involved in combatting Jamaican ganja exports and production in the 1970s, but switched attention to cocaine trafficking in the 1980s. Anxiety about US cocaine use converged in the 1990s with the concern of Caribbean lawmakers over the power of trafficking groups⁹ and the willingness of

3 Chevannes, Barry. (2004). 'Criminalizing cultural practice: The case of ganja in Jamaica' in Klein, Axel, Harriott, Anthony and Day, Marcus (eds.) (2004) *Caribbean Drugs: From Criminalization to Harm Reduction*. London: Zed. ISBN 1 84277 4999

4 This article and the report from the Council of Evangelical Churches in Jamaica are cited by Chevannes and Moyston, L, 24/09/2016, Jamaica Observer, http://www.jamaicaobserver.com/columns/The-ganja-law-of-1913--100-years-of-oppressive-injustice_15548584

5 Legislation drafted in Britain in accordance with British needs but extended and implemented in the colonies with little consideration about local conditions and impact

6 Niaah, 2014 'Ganja in Jamaica', in Labate, Beatriz & Cavnar, Clancy, Prohibition, Religious Freedom, and Human Rights: Regulating Traditional Drug Use

7 Moyston, L, 01/03/ 2015, Jamaica Observer http://www.jamaicaobserver.com/columns/The-police-and-ganja-reform_18480134

8 In 2014 Jamaica had a prison population of 4,050 and a rate of 145 prisoners per 100,000. The rate has been falling since 2009

9 Klein, Axel, Harriott, Anthony and Day, Marcus (eds.) (2004) *Caribbean Drugs: From Criminalization to Harm Reduction*. London: Zed. ISBN 1 84277 4999 West India Commission, 1992. *Time for Action: Report of the West India Commission*. Bridgetown, Barbados: Black Rock.

the European Commission to become involved in the fight against inter-regional threats. With the Barbados Plan of Action, 1995, the European Commission committed to supporting law enforcement, justice sector reform and in adherence to the principles of shared responsibility and balanced approach, prevention, community development and addiction treatment.

While international partners, as well as the Caribbean elite, were reacting to cocaine trafficking and the potential political challenge of trafficking groups, enforcement on the ground was directed at cannabis. In many encounters between police and public, the possession of ganja became a hotly contested issue, leading to thousands of arrests, a growing backlog in the courts and the overcrowding of prisons.

From the perspective of the European Union, one of the regions most important donors, the outcome was undermining the very principles on which the partnership was based. Programmes formulated to fight organised crime, were effectively tooling up law enforcement that behaved like occupation troops. Instead of supporting good governance, the programmes further eroded the functionality of key justice sector institutions and damaged the legitimacy of the state. Even more egregious was the impact on social development. The attack on ‘herb yards’ and the stop and search campaigns against Rastafarian are well documented in Jamaica, but are not well known from the other islands. Reports from St Lucia suggest that most of the ‘violence that takes place in the ghetto is a reaction to very heavy handed incursions by the police that are usually associated with cannabis interdictions’.¹⁰ Police attitudes are no longer compatible with policing by consent, and take more the appearance of an occupying army.¹¹ In St Lucia the officers ‘exhibit their ultimate power over the ghetto, by arriving in force, in battle dress and with automatic weapons’.

Policy change in Jamaica

It was only after significant changes in the external environment that the Jamaican government amended the Dangerous Drug Act in 2014. Taking advantage of US acquiescence with legal experimentation¹², the Jamaican government brought in new provisions ‘regarding the possession and smoking of ganja, use of ganja by persons of the Rastafarian faith, and use of ganja for medical, therapeutic and scientific purposes’ (Ministry of Justice, 2015). In essence, the law has made ganja possession of up to two ounces a ticketable offence (J\$ 500), and legalised consumption in private places and the cultivation of up to five plants. Already the measures have succeeded in reducing the number of ganja cases before parish courts from 8,284 in July 2014-June 2015 to 2,285 cases this year.

But the move was intended to achieve much more than easing the burden on an under resourced criminal justice system. It has raised hope that the ‘development of the marijuana industry also offers tremendous economic benefits.’¹³ As the medical benefits are being understood, Jamaica can position itself to offer treatment for serious a range of conditions that can be managed with cannabis derived applications. And like Colorado and the Netherlands, it also stands to gain from an uptick in recreational cannabis use among tourists.

10 Day, Marcus, 2012. *Needs assessment on youth gangs and their contribution to violence and crime in Saint Lucia*. CDARI: St. Lucia

11 Harriott, 2016; Harriott, *Police and Crime Control in Jamaica: Problems of Reforming Ex-colonial Constabularies*. Kingston: University of the West Indies Press. 2000. 231 pages.

12 as signalled at the Summit of the Americas and subsequently in a paper by Assistant Secretary of State Brownfield

13 The Minister of Tourism and Entertainment, Hon. Dr. Wykeham McNeill <http://jis.gov.jm/ganja-reforms-put-jamaica-ahead-of-other-countries/>

To that end the University of West Indies has set up a research and development hub on its Kingston campus with government funding and a range of private sector partners. The private sector is encouraged to apply to the Cannabis Licencing Authority headed by the former president of the Jamaica Exporters' Association Dr Andre Gordon. For international companies with financial backing, like CIVITA from the US this is an opportunity. Being able to conduct human subject research, CIVITA will work on medication for diabetes, epilepsy and chronic pain, as well as for various mental health disorders. ¹⁴

In marketing cannabis medical products, international companies like Timeless Herbal Care (THC) from Canada and Marley Natural are already taking advantage of the cultural cachet enjoyed by Jamaicans reputation for ganja, reggae, rastafari, to market its products in North America.

Members of the Jamaican government have realised that reputation is a valuable asset and talk about protecting against damage from substandard products marketed as ganja - containing, say, pesticide residue, or derived from non-Jamaican sources. The government has since commissioned the Jamaica Intellectual Property Office (JIPO) to develop a framework for protecting Jamaican ganja either as a geographical indicator, or through copyright, or patent, or a combination of the above.

There are other concerns harboured by inter alia the National Alliance for the Legalisation of Ganja would and the Ganja Future Growers and Producers Association. First, both organisation would like to push for fully fledged legalization. Secondly, there is concern that the real beneficiaries of Jamaica's incremental reform are the international investors, not the country's farmers and rastas who for decades have borne the brunt of the war on drugs.

The need for better scrutiny of development cooperation

In the European Union provisions for medical cannabis have been made in a number of countries, building on a fast-growing domestic industry and fast rising demand. Yet the opportunity for EU-Caribbean cooperation is yet to be realised. There are opportunities for the producers of cannabis medication like the Dutch company BEDROCAN to share with Jamaican partners their expertise in assessing cannabinoids, establishing the chemical composition of particular cannabis strains, and creating consistency under controlled conditions.

But at present European Union funding is flowing the other way. There are no efforts to better understand the ganja complex in Jamaica and other countries, or to facilitate medical research. Current funding provisions are earmarked for the support of regional institutions like the Implementation Agency for Crime and Security (IMPACS) and the Joint Regional Communication Centre (JRCC). At national level security agencies benefit from EU funded training as in the Seaport Cooperation (SEACOP) or Airport Communication (AIRCOP) projects. Each of these is likely to impact particularly on the inter-island cannabis trade.

The need for external scrutiny in European Union funded security cooperation becomes all the more apparent in areas on the cusp of policy reform. There is a real risk of policy decisions being made effectively at 'street level', or in the slippery interstices of agency to agency cooperation. With EU funding, law enforcement agencies can by-pass national decision making circuits and enact their own preferred policies on the ground. There is then a possibility that even as the region and the world shift towards an acceptance of cannabis use, that law enforcement continues waging the war that has brought their professions such benefits in terms of funding, powers, income opportunity and status.

¹⁴ Jamaica Observer, September 18, 2016 CIVITA donates ganja extract to UWI'S ganja-based epilepsy research http://www.jamaicaobserver.com/business/CITIVA-donates-ganja-extract-to-UWI-S-ganja-based-epilepsy-research_74314

All the more important then to apply pressure on both EU agencies and Caribbean governments to embrace a more constructive, development and governance based approach. Reducing prison populations, the waiting times at courts and improving community - state relations are critical development goals. Developing opportunities in medical cannabis or ganja related tourism are again legitimate objectives. Finally, there is an opportunity for establishing scientific cooperation between European and Caribbean partners for mutual benefit. Shifting from a security to a development frame holds the promise of benefiting all sides in the development partnership.

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