

Cannabis Confusion :

Criminalization and

Decriminalization

Revisited

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Cannabis sativa



Cannabis Confusion : Criminalization and Decriminalization Revisited

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Introduction

Cannabis is one of the world's major plants, it has been cultivated for thousands of years for five principle purposes: for hemp fibres, for its oil, for food (mature cannabis achenes do not contain intoxicating properties), for its hallucinogenic properties, and as a medicinal agent (Schultes, 1973). Cannabis use can be traced as far back as five thousand years to the Reign of Chinese Emperor, Shen Nung (Grinspoon & Bakalar, 1993). In the second half of this 20th century 'cannabis' has popularly come to mean virtually exclusively the dried leaves and flower tops of *Cannabis Sativa L.*, according to Interpol(1994), the most commonly used illegal drug worldwide.

Drug use is not a new phenomenon; however, in the present century, an obsessive focus has been placed on the danger of drug abuse and its potential to threaten the wellbeing of individuals and society (Searll, 1989). In the second half of this century, the drug problem has escalated to the extent that it has become an issue of united international concern. The internationally favoured means of dealing with the problem has been degrees of regulation up to prohibition of the various available drugs.

Internationally, cannabis falls into the category of prohibited drugs. A review of 'cannabis' literature shows that cannabis prohibition has been a site of intellectual and social contest. This paper attempts to critically investigate the meaning of cannabis criminalization - this includes what it 'meant' in the past, what it intends today, what it involves, what its influence is - and based on this understanding, to rationally assess and judge the criminalization-decriminalisation debate. This is conducted with a South African focus but an international influence. In order to obtain as broad an understanding of the issues as possible, the research approach is eclectic -

information has been obtained from a cross-section of sources , from official publications, to the publications of pro-decriminalization lobby groups; from drug users to anti-drug campaigners; from popular magazines to scientific journals; from letters, affidavits, archive records and even a TV debate programme.

Criminalization Today

Nations of the world have come together in support of the criminalization approach in international agreements, perhaps the most recently important of which have been the United Nations Single Convention on Narcotic Drugs in 1961; the UN Convention on Psychotropic Substances, 1971, and the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, in Vienna 1988.

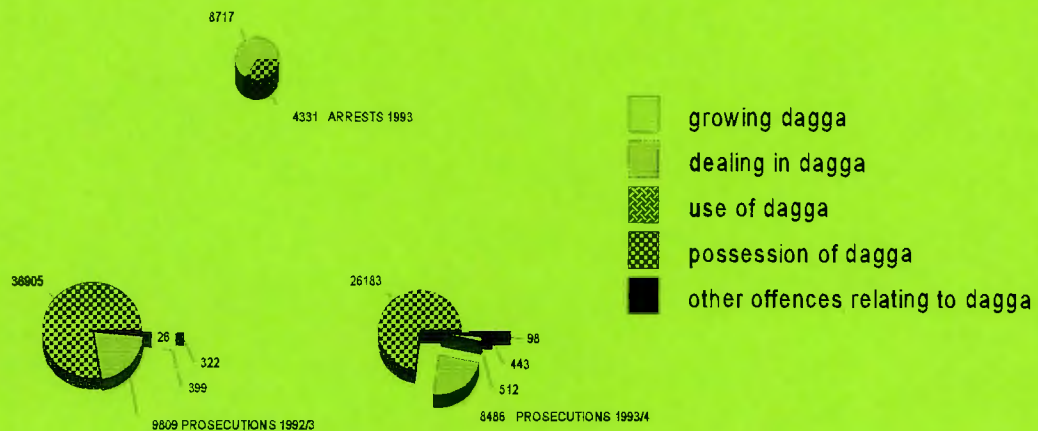
South Africa's Drugs and Drug Trafficking Act no.140 of 1992, was intended to bring local drug legislation into line with international drug legislative norms, particularly as they are specified by the 1988 Vienna Convention.

In the 1992 Act, cannabis is classed in Schedule 2, part III as an undesirable dependence-producing substance. Accordingly, use, possession of and dealing in Cannabis are illegal acts and convicted offenders are liable to the penalties in chapter IV, section 17 (d) and (e) of Act 140. Following section 17, offences involving use or possession of cannabis are punishable with a fine and/ a prison sentence not exceeding 15 years and the offence of dealing in cannabis - a person found in the possession of more than 115grams of cannabis is presumed to be a dealer (section 21(1)(a)(I)) - is punishable with a fine and/ imprisonment for a period of no more than 25 years. Offences involving substances listed in part I of schedule 2 have a lower maximum penalty of 10 years. In practice, Cannabis is the most widely used forbidden so-called 'dependence-producing substance' in South Africa and as such cannabis related arrests, prosecutions and convictions account for a large percentage of the total number of drug related arrests, prosecutions and convictions. The exact numbers involved are difficult to calculate because there is disagreement between statistics from different sources. According

to the South African Narcotics Bureau(SANAB), from 1 January 1993 to 31 December 1993, there were 17299 drug related arrests, of which 13048 (75%) involved cannabis. In contrast, Central Statistical Services(CSS) have 50292 drug offences prosecutions recorded for the period 1 July 1992 to 30 June 1993 of which 47 445 (94%) involved cannabis; and for the period 1 July 1993 to 30 June 1994, CSS, has 39967 drug offences prosecutions recorded, 35722 (89%) for cannabis related offences. These contradictory statistics suggest that there were many more prosecutions than arrests !

Cannabis/Dagga Offences

July 1992 to June 1994



As illustrated, according to CSS statistics, the majority of cannabis prosecutions in the 1992-1994 period were for possession offences. SANAB statistics create a different picture which shows possession offences accounting for only 30% (i.e 4251) of cannabis arrests. A member of SANAB, W/O L. Evans, was unable to give a reason for the discrepancies; however, she suggested that there had some problems with the computer programme that SANAB had been using to store their arrest data , and that as a result there had been

problems of misclassification. W/O Evans said that a new system had recently been installed and she was hopeful that within time the problems would be solved.

According to Mr Visagie of CIS Western Cape and Mr Carrolosin of SAPS Gang-Unit, the cost of implementing criminalization from arrest to prosecution of each case is a minimum of R3000 and if the case is drawn out the cost can go up to R 15 000. Working on the number of cannabis prosecutions as ranging from 13048(SANAB, 1993) to 35722 (CSS, 1993/4), it is possible to estimate that a lower range of **R39 144 000 to R107 166 000** worth of resources were used in a particular 12 month period, to carry out cannabis criminalization. For cannabis possession offences, the number of prosecutions in a particular 12 month period can be estimated as between 4251 (SANAB, 1993) and 26183(CSS, 1993/4), which translates to a lower range of resource expenditure of R12 753 000 to R78 549 000. This excludes the cost of resources used to implement the punishments resulting from cannabis convictions, of which, according to CSS there were 75 688, from 1 July 1992 to 30 June 1994.

The Extended Public Committee debate on the Drugs and Drug Trafficking Act, focussed on the need to eradicate drug trafficking and the Act was intended to be as the then Minister of Justice suggested, a 'legislation...to catch the big ones, not the small fry but the big ones'(1992:11814). In practice, the CSS statistics suggest that possession of cannabis offences account for the greatest proportion of solved drug offences, followed by cannabis dealing offences.

Mr Visagie(CIS) describes a drug trade triangle in 4 tiers:

Importers - international & National

Distributors - provincial & national

Peddlers - local

Users

The so called 'big ones', the traffickers are those in the upper two tiers - the distributors and importers. Catching those 'big ones' has not been so successful, because, according to W/O Evans (SANAB), investigating traffickers is an extremely difficult and lengthy process which

takes between 3 and 10 years. The difficulty is that the drug lords do not come into contact with drugs and the assets from the proceeds of drug trade are often in the names of other people, such as relatives. Peddlers are small scale dealers, and according to Mr Visagie, there is a 75% solving figure for these crimes, however, peddlers are easily replaced.

At the Extended Public Committee debate on the Drugs and Drug Trafficking Bill, many Members called for harsher penalties for drug offences. The Hon. Member for the North Western Cape, Dr M S Padayache, called for a similar approach to that of Malaysia where there is the death penalty. Interestingly, although it is true that Malaysia's Dangerous Drugs Act, 1952, permits a maximum penalty for trafficking of death, in Malaysia, use of cannabis is not listed as an offence and the maximum penalty for possession of less than 200g of cannabis is 5 years (United Nations, 1995)*.



According to the UN Conventions (of 1961, 1971 and 1988), the scheduling of a drug should depend upon the danger of abuse and the therapeutic potential of the drug. After reviewing the Drugs and Drug Trafficking Act, 1992, the Chief of the Legal Affairs Section of the UN International Drug Control Programme, Ms C Volz (1994), observed that the criteria used to distinguish whether a drug should be placed in part I or parts II and III (liable to the same maximum penalties) and thus be liable to different maximum penalties were unclear. Evidently the criteria used in the South African Schedules were different to the criteria of danger of abuse and therapeutic potential suggested by the UN. Ms Volz pointed out that the Conventions did not require the creation of harsher sentences for certain substances, but **only that offences involving drug trafficking be established as serious offences** .

*In Malaysia, as in a number of other countries where use of cannabis is not a statutory offence, the law makes a distinction between use and possession, and possession is an offence. In some countries such as Columbia and Venezuela, provision is made for an amount of cannabis which can be legally possessed for personal use. However, other countries, such as Malaysia (also Australia, USA, UK, Italy), do not specify such an amount and possession is an offence.

On a television debate, a member of SANAB, Lt. Col George Mason, was asked whether he thought South African Law dealt harshly with dagga offences, he replied "I really don't think we have harsh laws, in Islamic countries people are given the death sentence. Compared to that our laws are definitely not harsh"('Two Way', 1995). In fact, a comparison of the laws of countries which have joined the 1988 Convention with the South African law, shows that for offences of use and possession, South African maximum penalties rank among the harshest in the world. The following table lists 66 countries party to the 1988 Convention and South Africa, and their maximum penalties for the offence of non-medical use of drugs:

Maximum Penalty for non-Medical Use of Drugs					
USE IS NOT AN OFFENCE	OTHER SANCTIONS	MAX. UNDER ONE YEAR	MAX. ONE YEAR	MAX. TWO YEARS	MAX. THREE YEARS
Australia USA UK (Cannabis) Netherlands Italy Pakistan Antigua&Barbuda Bahamas Barbados Columbia Venezuela Malaysia(Cannabis)	*Spain - Public consumption: Administrative Penalty. *Costa Rica - Public consumption : fine *Bolivia - Treatment *Chile - Treatment *Dominican Republic - Classification *Bangladesh - Addiction: treatment *Guatemala - 1yr 'arresto mayo' *Panama - detention for recovery *Paraguay - detention for recovery *China - compulsory treatment *Myanmar - drug users must register and be treated	Portugal (3mths max) Canada Sri Lanka Honduras India(6mths max for Cannabis) Nepal (1mth max for Cannabis)	France Guinea Morocco Senegal Syria	Saudi Arabia Brazil Jordan Ecuador Sierra Leone Niger (private use) Mauritania	Sweden Luxembourg United Arab Emirates Monaco(private use)
MAX. FIVE YEARS	MAX. SIX YEARS	MAX. SEVEN YEARS	MAX. TEN YEARS	MAX. FIFTEEN YEARS	
Japan(Cannabis) Germany Qatar Tunisia Togo Madagascar Cote D'Ivoir Cameroon Burundi Burkina Faso	Denmark Argentina(public use)	Sudan	Zambia Brunei-Darussalam Monaco(group use) Niger (public use)	Seychelles South Africa	

(Source :United Nations, 1995)

In the previous table listing 66 countries, 12 countries do not make drug use an offence (as indicated, in some countries only cannabis use is not an offence) and 81% of the countries that do criminalize drug use, have a maximum penalty of 5 years or less. As indicated, some countries only criminalize public use of drugs and some countries that criminalize use prescribe harsher penalties for public/group use than private use.

The following table lists the maximum penalties for personal/simple possession prescribed by some of the signatory countries of the 1988 Vienna Convention, it is important to note that quite a few countries appear twice because of different maximums for summary convictions and indictments:

Maximum Penalty for Personal/Simple Possession of Drugs					
NOT AN OFFENCE	OTHER SANCTIONS	MAX. UNDER ONE YEAR	MAX. ONE YEAR	MAX. EIGHTEEN MONTHS	MAX. TWO YEARS
Bahamas (up to 500g cannabis) Columbia (20g cannabis) Venezuela(20g Cannabis)	*Italy - administrative sanctions *Spain - administrative sanctions *Egypt - hard labour&fine *Bolivia - treatment *Guatemala -1yr 'arresto mayo' *China - treatment &forced Labour *Iran - fine & whipping *Syria - temporary confinement & Fine	Netherlands(>30g cannabis:1mth/fine) India (6mths) Portugal (3mths) Honduras(3mths) Antigua&Barbuda (6mths - summary) Sri Lanka (> 5kgs Cannabis)	UK(summary) Canada (summary) Guinea Dominican Republic(>25g cannabis) Grenada (summary)	Dominica (summary)	Australia (> 100g cannabis) Argentina Brazil Ecuador Jordan Pakistan (>10g cannabis)

MAX. THREE YEARS	MAX. FOUR YEARS	MAX. FIVE YEARS	MAX. SIX YEARS	MAX. SEVEN YEARS	MAX. TEN YEARS
USA (+fine) Sweden Monaco Luxembourg Monaco United Arab Emirates Dominica (summary)	Costa Rica Paraguay	Germany Japan Saudi-Arabia(+fine) Qatar(+fine) Malaysia(200g cannabis) Barbados(summary) Tunisia(15g cannabis) Seychelles(15g cannabis) Madagascar (+fine) Cote D'Ivoire Cameroon(+fine) Burundi Burkina Faso	Denmark	Sudan Cyprus Canada (Indictment) Grenada (indictment) Antigua& Barbuda (indictment)	France Brunei-Darussalam Myanmar (>75g Cannabis)
MAX. FOURTEEN YEARS	MAX. FIFTEEN YEARS	MAX. TWENTY YEARS	MAX. TWENTY-FIVE YEARS		
UK(indictment)	Zambia South Africa	Barbados+fine : indictment)	Mexico		

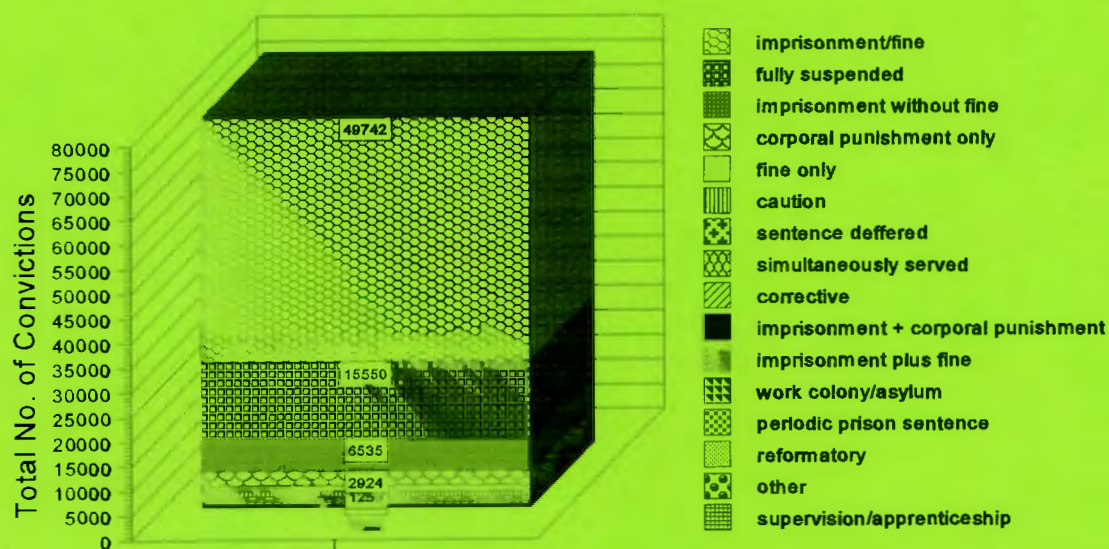
(Source: United Nations, 1995)

Although South Africa's maximum penalty for drug use and possession of 15 years and/fine is comparatively harsh, in practice, in South Africa and probably in some of the listed countries, the maximum penalty is rarely implemented.

For South Africa's total drug offences category - of which cannabis offences constitute 89-94% - the types of sentences implemented in the 24 month period from 1 July 1992 to 31 June 1994, are:

Sentences

July 1992 - June 1994



Source: Central Statistical Services, 1993, 1994

Here follow some examples of cannabis offences convictions, sentences and sentence changes on appeal:

OFFENCE	SENTENCE	APPEAL	CASE
selling 18g dagga to police	36mths imprisonment, half of which suspended for 5yrs	replaced with 9mths imprisonment fully suspended.	<i>S v Mathenjura</i> 1993 (1) SA 52 (W)
selling one matchbox of dagga to police trap	8mths imprisonment, of which four months suspended	8mths imprisonment fully suspended	<i>S v Ngobeni</i> 1993(1) SACR 633(T)
Selling two matchboxes of dagga at R2,50 each	48mths imprisonment, of which 20mths suspended	12 mths imprisonment plus 18mths suspended imprisonment. Further appeal- 18mths imprisonment suspended in entirety. (Court <i>a quo</i> erring in its view that basic premise should be that direct imprisonment called dealing dagga-Courts now possess virtually unfettered discretion in respect of sentences drug offences.)	<i>S v Nkabinda</i> 1993 (1) SACR 6 (A)
Possession 1kg of dagga own use		Fine R2 000 or six months' imprisonment, of which half suspended three years. (Dagga so freely available that at least a large part of the population does not regard the possession thereof as a major social evil.)	<i>S v Motsiawedi</i> 1993 (1) SACR 306(W)
Possession of 17 'pills' of dagga (over 30 yrs accused convicted 6 times of possession and once of dealing in dagga)	5 yrs imprisonment	correctional supervision	<i>S v Williams</i> 1993 (2) SACR 674 (A)
possession 312g dagga	24mths imprisonment, of which half suspended five years	3mths imprisonment plus 3mths suspended five years.	<i>S v Bassie</i> 1992 (1) SACR 416 (W)

(Source: Barrow,1994: 180-186)

With courts permitted 'virtually unfettered discretion in respect to sentences drug offences', the high, and seldom implemented, maximum penalties in the Act are more a **statement of fierce condemnation** than a practical prescription. Nevertheless, a 'statement' which directs the criminalization of certain drugs and necessitates the procession of use, possession and small scale cannabis dealing offences through the criminal justice system.

Modern-Western style criminal justice systems , such as the South African system, are rooted in, what is commonly referred to as the retributive paradigm(Muntingh, 1994; Skelton, 1995; Zehr,1995). Howard Zehr summarises the most characteristic features of this paradigm as :

Crime

is a violation of the law,
and the State is the victim.

The aim of justice

is to establish blame (guilt)
and administer pain (punishment)

The process of justice

is a conflict between adversaries
in which the offender is pitted against the state
rules and intentions outweigh outcomes
and one side wins while the other loses.

(1995 : 9)

The previous table of dagga offences and sentences bears testimony to Zehr's configuration of retributivist 'rule of Law'. Take for example a case from the previous table, *S v Motsiawedi* : possession of a drug such as cannabis for own use is sometimes referred to as a 'victimless' crime, yet this act is violation of the law and the victim , as suggested by the structure of recording the case - *S v Motsiawedi* - , is the state. Obviously, Mr Motsiawedi , was found guilty of the crime and was sentenced to the punishment outlined in the above table. Although, the state accepted that his intention was to use the 1 kg of dagga himself, and that the 'view of a large part of the community (i.e. that possession of dagga is not a major social evil) should not be disregarded, a legal infraction had occurred and punishment was in order, so Mr Motsiawedi lost the 'battle' and the state won.

This case exemplifies Alan Norrie's conceptualization that,

The Western 'Rule of Law'...unites contradictory elements of oppression and freedom within one concept... 'the governance of laws' codifies and enforces the private property norms of a mode of production that is exploitative and oppressive of large sections of people...On the other hand, the 'governance of laws' establishes the promise of a realm of freedom from state authoritarianism. The individual has a claim that the state should not intervene in her life unless she breaks the law...(law)establishes a field for the play of individual liberty... but (a field of liberty) that is tied to inegalitarian structures of wealth and power so that to resort to law is to get bogged down in existing inequalities...

(1993: 97-98)

History of Cannabis Use and Criminalization

Archeological evidence indicates that cannabis was used in North-Eastern Asia in neolithic times approximately 5000 years ago (Li, 1975). In ancient times in China, cannabis, or ta-ma as it was first known, was used a variety of purposes - as plant fibre, food, medicine, and in Shamanic rituals



(Li,1975).Ta-ma was prescribed malaria, beriberi, constipation, rheumatic pains and absentmindedness (Schultes,1973). While the hallucinogenic properties of the drug initially prompted condemnation of its use for pleasure and the label of“liberator of sin”, later in ancient China it was looked upon favourably as the “delight giver” taken for “the enjoyment of life”(Schultes,1973). It is thought that nomadic tribes were responsible the diffusion of the plant to Western Asia and from there to India (Li,1975).

In modern day India, cannabis, used in three forms - ganja, bhang and charas -, has the social sanction of Hindu castes, while alcohol use, a habit of the lowest castes, is despised (Hasan,1975). According to Indian mythology, cannabis/hemp was a gift of the gods (Schultes,1973). It is believed to be the food of the god Shiva and cannabis drugs are still used in religious ceremonies in honour of Shiva (Hasan,1975).

Cannabis smoking parties form an integral part of Indian social ritual (Hasan,1975). People come together to share a pipe and to discuss social matters . This often occurs during breaks in the workday, when smoking is over people go back to work, thus “smoking parties are like ‘coffee breaks’ in the American culture”(Hasan, 1975 :242).

Cannabis is an important traditional medicinal plant in India used for headaches, fevers, insomnia, dysentery, gonorrhoea, whooping cough, to stimulate appetite, and to quicken the mind (Schultes, 1973).

In Nepalese traditional society cannabis is also used by people of all castes (Fisher,1975). Holy men from a variety of Hindu sects, including the Shivite sects, use cannabis (Fisher, 1975). At devotional meetings of the Bhakti sects, male devotees come together to sing hymns and as a symbol of fellowship they share a ganja pipe (Fisher,1975).

Cannabis is also a traditional medicine usually mixed with other ingredients to treat a variety of ailments such as diarrhea, cholera, rheumatism, insomnia and coughing (Fisher,1975). It is also believed to act as a digestive aid, an antimalarial agent and an aphrodisiac (Fisher,1975).

For the working class people of Jamaica, cannabis use is an institution (Comitas,1975). According to Comitas (1975 : 127), smoking ganja with a group of smoking 'buddies' is "a natural part of the daily rounds, an almost unnoticed routine at work parties, lunch breaks, evening visits and the like."

Ganja is believed to have medicinal properties and is used to promote general health, relaxation, to prevent constipation, to treat colds, arthritis, gonorrhoea, and stomach ailments (Comitas,1975). There is also a strong traditional belief that using ganja before work provides energy and motivation and so increases work capacity (Comitas,1975).

In some small communities in Mexico which belong to a particular Indian tribal group, cannabis is a sacred plant known as 'La Santa Rosa' (Williams-Garcia). A legend surrounds the origin of 'La Santa Rosa' which is chewed as part of the religious ceremonies of the cult (Williams-Garcia,1975).

Also used for social-relaxational purposes by Mexicans, cannabis smoking was introduced to the United States by Mexican labourers at the beginning of this century (Schultes,1973).

Cannabis in the form of hashish has a long history of use by the Islamic people of Asia Minor (Schultes,1973). By 1271, the use of hashish was so common and well known that Marco Polo documented its use by a secret order of Hashishans (Schultes, 1973).

Hashish has been used for several hundred years in Egypt where there is a religious prohibition of alcohol (Khalifa, 1975). Hashish sessions are a common social ritual in Egypt, at which people from different social backgrounds meet in an atmosphere of friendship and joy to smoke hashish from a shared water pipe (Khalifa, 1975).

There are several theories of how and when cannabis came to be used in Africa, however after reviewing these theories in the context of his in-depth research on the matter, Brain du Toit (1980), concludes that cannabis, which has been smoked in Africa for at least six centuries, was most probably introduced to Africa by Arab traders and diffused during their travels and trading.

The widespread use of cannabis by the indigenous people of Southern Africa has been variously documented by the settlers, missionaries and explorers to the area during the period of colonization. Some of the observed uses of cannabis in Southern Africa were, amongst Zulu, Sotho and Swazi warriors, cannabis was smoked before a battle to promote energy and self-confidence (still today Africans report that the major effects of cannabis use are courage and concentration (Du Toit, 1980)); it was used by praise singers and diviners; cannabis, it was believed, encouraged clear thought; some peoples believed that cannabis increased work efficiency, and it was also used traditionally as medicine - to treat amongst other illnesses, malaria, blackwater fever, blood poisoning, anthrax and dysentery (Du Toit, 1980). Cannabis also has a long history of social use among traditional African people. In the traditional social context, "men got together, very often to smoke cannabis, and to discuss village affairs or to indulge in yarns, such as telling riddles or playing word games"(Du Toit, 1980 :). In this context, a father would introduce his son - when of an appropriate age- to cannabis smoking in the company of friends and close relations (Du Toit,1980).Although smoking in moderation was a common and acceptable practice, excessive smoking and intemperance was frowned upon in traditional African society (James, 1970). Since prohibition and the condemnation of the traditional social rituals of cannabis smoking, cannabis use no longer takes place in the

protective context of the extended family(Du Toit,1980).

These brief descriptions of traditional cannabis use in a handful of non-Western countries, permit comparison and the formulation of a summary of the meaning of cannabis in a non-western context. Firstly, cannabis has an history of association with religious ceremonies. Secondly, cannabis is believed to be of medicinal value. Thirdly, cannabis plays a pivotal role in social relaxational rituals - the smoking of cannabis is associated with the coming together of close-knit groups, to relax in an atmosphere of fellowship and to discuss relevant issues.

At the parliamentary debate on the Drugs and Drug Trafficking Bill, Mr R.F. Haswell arguing that cannabis/dagga smoking was a cultural practice ,observed that “There are many of us who partake on a daily basis of a cocktail, gin and Tonic, example. I mean that is the national drink of Natal. Where would Natal be without a gin-and-tonic-cocktail? We would close down, quite frankly. Where would the other parts of the country be without a sundowner, or a pub lunch”(1992 :11830).

Despite the acceptability of Western social rituals of coffee breaks, G&T's, sundowners and pub lunches; the originally non-Western ritual of cannabis smoking has been deemed unacceptable. Modern western justice systems have created, to adapt Norrie's terminology, a field of 'drug' play which includes for example, nicotine and alcohol which , according to anti-drugs campaigner, Adele Searll are ' an important part of everyday life and are frequently used to help ' break the ice' or aid conversations' (1989 :55). Yet, the construction of this field of play is questionable, since as Searll adds, “It has often been said that if alcohol and tobacco were to be invented now, they would almost certainly be banned”(1989:55). However, cannabis which is often called a 'soft' drug and which is by no means a 'recent invention', lies beyond the field of play allowed by western law. Why?

To answer that cannabis “ is in fact a potent drug, that when abused can have lasting and very harmful effects”(Searll,1989:57), is simply no answer at all since the same can be said about

alcohol. In fact, there is evidence that cannabis is less harmful than alcohol (Bonnie,1980) ;Coleman,1992; Mcdermott,1993) On the basis of evidence on the effects of cannabis, the Drug Enforcement Agency's Administrative Law Judge, Francis.L.Young, ruled in 1988 that "marijuana in its natural form is one of the safest therapeutically active substances known" (NORML,1995).

A more penetrating solution to the cannabis conundrum is to be found in the direction suggested by Manna and Ricciardelli(1989), who state that:

The assimilation of soft drugs together with hard drugs appears to be based on a fundamental cultural reasoning : the absence of the use of drugs as part of Western culture, but the tolerance of alcohol and tobacco which are produced by this culture.(p.232)

While Manna and Ricciardelli's insight offers direction, it is curious that despite their suggested direction, the way they have phrased themselves represents a perpetuation of the Western cultural reasoning that they are criticizing, since they appear to have separated alcohol and tobacco from the category of drugs. As Coleman (1992) notes,:

When Journalists write about 'drugs' and politicians talk about them they are usually referring to three particular drugs: heroin, cocaine and cannabis. The implication is that these three drugs are particularly dangerous and exceptionally addictive ...(p.52)

Indeed, the term 'drug addict' is rarely, if ever, used to describe a person who abuses cigarettes or alcohol; when reference is made to 'drug addicts', chain-smokers and alcoholics are seldom intended to be included in the reference, even though they most certainly are 'drug addicts'. Even the *name* of the national organisation the South African National Council for Alcoholism and Drug Dependence (SANCA) makes this distinction. The stigma involved in these supposedly polarised addictions is quite different too - the alcoholic is a person with a disease, the drug addict is a criminal degenerate. In post-modern 'theory', language is more than a reflection but

more fully a constitutional act (Agger, 1991). Deviance theorists have shown how naming is a manifestation of social control and that to “describe a membership category is to attribute a moral character to its incumbents” (Brown, 1993:659). Thus, while reflecting, the language of drugs is also entrenching the socio-cultural divide between the so-called illegitimate, unsocially acceptable drugs and the legitimate, socially acceptable drugs.

A more apt conclusion to draw from the assimilation of ‘soft’ illegal drugs with hard, illegal drugs, would be that despite a strong Western tradition of using West-produced drugs, the difference of non-Western cultures and their different set of traditional drugs and drug taking rituals, representing a facet of ‘alien’ culture, caused the Western rejection and misclassification of such drugs on the basis of a fundamental cultural reasoning. .

* * *

The Roots of Criminalization

“To a 16th century Englishman, white was the colour of purity, virginity, and black was its polarity: filthiness, sin, and baseness” (Fagan, 1984:23). Rooted in this most basic division, the colour of the African person’s skin immediately set him/her apart from the English person (Fagan, 1984). And the proverbial ‘great divide’ was most gravely widened, from the English person’s point of view, by the African person’s lack of religion - religion being virtually synonymous with Christianity for the English person (Fagan, 1984). In fact, almost every aspect of the African way of life existed in contrast to the European lifestyle. Emanating from Aristotle’s assertion that ‘the world is divided into Greeks and Barbarians’, Western explorers who first encountered other cultures, such as but not limited to, the African cultures, regarded them as primitive and bestial (Fagan, 1984). Of the KhoiKhoi people who lived in the Cape of Good Hope, sea Captain, John Orvington wrote in 1698 “Of all people they are the most bestial and sordid. They are the very reverse of Human Kind...So that if there’s any medium between Rational Animal and a Beast, the Hottentot lays fairest claim to that species” (in Fagan, 1984:26) While curious about these primitives, Westerners, were simultaneously filled “with a sense of hostility and rejection towards foreigners, and a need to protect themselves against

intruders”(Fagan,1984:17). “To justify their domination, the dominators establish categories, then moral hierarchies, that distinguish the pure from the impure...relative cultural differences are turned into absolute natural oppositions ...differences are recognized as traits that mark the culture as infidel or savage or otherwise in need of Western assistance”(Brown,1993:660-661). In the European mind, non-Westerners came to be stereotyped as lazy, cannibalistic, primitive, and pagan. Gradually, the perception of non-Westerners as bestial was supplanted by the more ‘charitable’ conceptualization of them as childlike human beings(Fagan,1984). Britain’s rise to colonial power coincided with an upsurge in Christian piety at home and as a result there was an intensified missionary effort overseas (Fagan,1984). British missionaries in Tahiti intended to completely transform Tahitian traditional society into a British styled society - this would entail the abandoning on all traditional customs, learning to cultivate European crops, using Western medicines, becoming Christian, adopting European styles of ‘art, music, dress, architecture, village layout, even food, clothing and drink’(Fagan,1984:149).

In a doctoral dissertation about missionaries in the frontier zone of the South African colony between 1780 and 1840, Legassick (1968) observed that,

The cooperation between missionaries and government was fostered by the broad ideological assumptions they shared about policies to be followed towards ‘heathen’ and non-white peoples in general. The heathen it was believed, should be introduced to ‘Christianity’ and ‘Civilization’. ‘Civilization’ it was broadly understood, implied the acceptance and practice of the customs and institutions of European, and, specifically British society. It included the Protestant virtues of industry ,regularity, thrift and cleanliness no less than the wearing of European clothes, the building of European-style houses, secure and square...Thus in 1809, Lord Caledon informed Anderson that the Orange River Mission would have “every support in his power” because of its “ most beneficial effects in recalling the natives...to habits of Industry and Regularity, without which it will be impossible to bind them in society”.

Bearing this in mind, it is useful to understand the British reaction to the habit of cannabis smoking, a glimpse of which is provided by the explorer Lionel Decle (who “though domiciled in England, [was] a Frenchman by birth and parentage, and [came] from a good family” {1900:vii}) who describes his encounter with a cannabis smoker in South Africa in 1891:

His skin was as black as ebony, and he was very muscular...At the moment of my arrival he had just lighted a ‘dakka’ (Indian Hemp) pipe...By applying his hands to the horn, leaving but a small interstice whereto apply his lips...,he filled his lungs with smoke; which he inhaled with all his might and main in a most laughable manner; then throwing back his head and showing his eyes all bloodshot, he puffed out the smoke from his mouth, coughing, gasping, almost suffocated - but triumphant. But hardly had the cough stopped when he began again even more violently than before. After five or six repetitions he stopped to take breath. The most curious part of the performance was that each time he stopped to take breath he commenced spitting. I must add that the practice of smoking Indian hemp is followed by the most deplorable results. It produces at the time a drunken excitement, followed by stupor, and those much addicted to it soon suffer from regular delirium tremens. The custom is found in every part of Africa I have visited. The fellow was absolutely naked with the exception of a narrow leather girdle, from which hung three wild cats’ skins with a single skin behind.

(1900:24)

Decle’s observation shows that although the purpose of the dagga smoking social ritual may have been quite similar to accepted British social rituals such as the drinking of alcohol, the process and structure of the African ritual - which Decle forms with words such as ‘gasping’,

‘spitting’, ‘bloodshot eyes’, ‘laughable’, ‘violence’, ‘deplorable’ - was decidedly ‘unBritish’, and

uncivilized. In addition to the utter alienness of the ritual, the fact that smoking dagga induces 'intoxication' in the 'heathen', makes it a most unsuitable activity from the point of view of 'recalling habits of industry'. This and the traditional use of dagga by diviners, would be looked upon by missionaries as 'unchristian', in fact, as evil. Evidence of the perceived 'evilness' of cannabis, is to be found, for example in Bourhill's landmark thesis in 1913, the very title of which - "The Smoking of Dagga (Indian Hemp) among the Native Races of South Africa and the Resultant Evils" - is indicative of such a perception. In one part of the work, Bourhill, notes of dagga smoking that "...missionaries say that a native who embraces Christianity gives up this vice" (in Du Toit, 1980 :61).

In sum, the African tradition of cannabis smoking would not have been viewed as conducive to the project of binding the 'heathens' into a traditional British society. As much as ebony skin and the wearing of no clothes save a few strategic skins were indicative of a thoroughly alien culture, so too was the habit of smoking cannabis. Colonists, believing that their culture was the only 'civilization' were naturally inclined to redirect what they considered, lesser developed humans, childlike humans, to civilization. As Lord Frederick Lugard, Governor of British Nigeria claimed "...In Africa today we are...bringing to the dark places of the earth - the abode of barbarism and cruelty - the torch of culture and progress, while ministering to the material needs of our civilization...we hold these countries because it is the genius of our race to colonize, to trade and to govern" (Brown, 1993:661). Cultural difference creates systems of judgement and justifications of coercion which are required by the state to cement its authority and dominance, and thus 'cultural difference becomes political deviance' (Brown, 1993). With colonisation came new methods of discipline - the British systems of criminal courts, prisons and insane asylums (Merry, 1991). It was the belief of the colonizers that the introduction of Western Rule of Law was one of the most important advances for the colonized since 'oral and flexible legal systems' were considered primitive and disordered (Merry, 1991). "The courts and the police established by colonial powers, arrayed beside the mission, the school, the store and the local government office, enforced compliance to a new political order and...a new culture" (Merry, 1991:890)

Cannabis smoking was thus but one aspect of the 'heathen' cultural difference which became political deviance which the state would attempt to destroy in its assertion of power.

In his 'Journal of a Visit to South Africa in 1815 and 1816', Latrobe, appalled by the cannabis smoking habit, made the first proposal towards a severe criminalization of cannabis use and selling:

It is necessary that most determined resistance should be made against this destructive propensity, and by a rule established in our settlements, the use of dacha is to be entirely abandoned. Whoever is smoking it, is excluded: but a seducer of others to the abominable practice, expelled.

(In Du Toit,1980:2)

It was over half a century after Latrobe's proposal that the first penal code was introduced in Natal; however, it was not directed at African people but perhaps an even more disempowered group - the workers on contract from India. Colonial stereotypes and prejudices had long been constructed about the Indians, one writer in British India claimed 'The true Pathan is perhaps the most barbaric of all races with which we are brought into contact in the Punjab'(Brown,1993:667). Already mentioned was the long history of cannabis use in India and as early as 1793, the British had established a system of regulating cannabis production in India (Du Toit, 1980). Du Toit(1980) hypothesises that the indentured workers in Natal, through contact with Zulu labourers who had a similar cannabis smoking propensity, quickly established local supply networks to facilitate the continuance of the cannabis culture. The Natal Law No.2 of 1870, the "Coolie Law Consolidation", contained a section directed at "prohibiting the smoking, use or possession by and the sale ,barter or gift to any Coolies whatsoever, of any portion of the hemp plant (Cannabis Sativa); and authorizing the destruction thereof if found in such use or possession; and imposing penalties on coolies using, cultivating or possessing such plant or the purpose of smoking the same"(Section 70, Cadiz&Lynon,1880).

The Natal Law was one of the first Western attempts to eradicate cannabis use through prohibition. Nevertheless, as Du Toit (1980) observes, this law did not have much impact on the entrenched social ritual of cannabis smoking .

The colonizers themselves became categorized by their discourses of domination since “...Civilized colonizers must always resist contamination by the impure barbarian. They repress the Other not only in the colony but also in **themselves. They become victims of their own categories of colonization**”(Brown,1993:668)

The perceived threat of cannabis use resulted in another colonial territory in South Africa adopting the criminalization route : in 1903 the Orange River Colony passed the Dagga Prohibition Ordinance 48 (Lefebvre & Jackson, 1907). This time the law applied to everyone :

1. It shall not be lawful any person
 - a) to give, sell, barter, exchange or otherwise supply to any person
 - b) to accept, purchase, take in exchange or otherwise receive from any person the herb Cannabis Indica commonly known as ‘Dagga’ or ‘Indian Hemp’ or any preparation thereof: Provided that nothing in this section contained shall apply to the sale or administration medicinal purposes of any preparation of the said herb by any licenced medical practitioner or any licenced chemist or druggist.
2. Any person contravening the provisions of the last preceding section shall be liable on conviction to a fine not exceeding 25 pounds or in default of payment to imprisonment with or without hard labour a period not exceeding 3 months.

After Union in 1910, the laws passed in Natal and the Orange River Colony , remained in force, and there were no national laws controlling dagga until 1922 . The Customs and Excise Duties Amendment Act 35 of 1922 made it possible the Governor-general by proclamation, to ‘regulate and restrict the importation of habit forming drugs’, such as opium, morphine, cocaine and dagga, and to specify by whom and for what purpose such drugs could be ‘kept, sold, supplied, prescribed’. Cultivation of dagga was prohibited unless under special permit and only a few permits were granted, for example, for cultivation, for the purpose of export, and for fibre purposes(Minister of Public Health, 1924-1926).

From 1924 to 1930 the Union of South Africa government sent annual reports on traffic in Opium and Dangerous Drugs to the League of Nations the League Commission on that topic

(Minister Public Health, 1924-1930). The report was based on a series of questions furnished by the secretary-general of the League and the drugs specifically referred to in the questions were Opium, Morphine, Heroin and Cocaine . Question 14 asked for ‘Additional information and suggestions’, and the Union government consistently included dagga in the response. For example, in 1925 the Union government replied that ‘...the one habit-forming drug problem of South Africa is the smoking of Dagga or Indian Hemp by the natives and coloured persons.’ As proof of the problem the government consistency included the dagga prosecutions and conviction figures in their reports, the tables were as follows (original categories maintained):

YEAR	EUROPEAN		NATIVE		ASIATIC		COLOURED	
	prscutions	cnvictions	prscutions	cnvictions	prscutions	cnvictions	prscutions	cnvictions
1924	61	53	1859	1777	96	92	719	684
1925	45	39	2733	2635	71	61	784	769
1927	52	47	3303	3186	72	64	901	881

In many ways the evidence of this table represents a reinforcement of cultural difference by the state in the continuous process of ‘constructing and consolidating its authority’.

Attached to the 1925 report, was a memorandum issued by the Department of Public Health entitled ‘Dagga Smoking and its Evils’. During the 1924 calendar year (upon which the 1925 report is based), representations were made by the Union government to the League, urging that Indian Hemp or Dagga be placed on the international list of habit-forming drugs. In a letter to the Opium Commission, the Secretary to the Prime Minister wrote ,

I have the honour to inform you that from the point of view of the Union of South Africa, the most important of all the habit forming drugs is Indian Hemp or ‘Dagga’.(Advisory Committee on Traffic in Opium and Other Dangerous Drugs, Annex 8,1924, p.89)

The issue was discussed at the 12th meeting of the 6th session of the Advisory Committee.

At the meeting the French representative, Mr Bourgois, observed that cannabis had been deliberately excluded from the Opium Commission since it involved other issues (relating to the underdeveloped countries in which it was used) not relevant in the context of that commission. Mr Bourgois added that in some French colonies where cannabis use had led to abuse, local laws had been created to control and limit cannabis use and “In other colonies Indian Hemp was absolutely prohibited, so that the evil could not be spread”(1924:52).

Cannabis /Indian Hemp had not been intended for the rulings of the Advisory Commission on Opium and other Dangerous Drugs, its international status was unclear, and it certainly was not the priority for some other nations that it was for the Union, for example, during the 5th session of the advisory committee it was made clear that “the American problem is a problem in the main, almost entirely of the production of Opium and the Coca

Leaf”(Advisory Committee on Opium and Other dangerous Drugs, 5th Session, 1924:85)

Thus the at the 6th session meeting, it was decided that before the validity of the South African Union’s proposal could be established, a circular letter should be sent to all the governments to ascertain their

views on the issue.

In the International Opium Convention treaty of February 1925, in chapter iv, article ii, it was agreed to “prohibit the export of the resin obtained from Indian Hemp (Indian Hemp means dried flowering and fruiting tops of the pistillate plant *Cannabis sativa* L.) And the ordinary preparations of which the resin forms the base (e.g. hashish, esrar, charas, djamba)



to all the countries which have prohibited their use.”

Although the outcome of the treaty might not have been exactly what the Union government had wanted (i.e. since export of the dried leaves of the cannabis plant was not prohibited and the prohibition only applied to countries that already had cannabis prohibition laws, the South African role is historically significant because the Union's proposal ultimately initiated in the international assimilation of cannabis (a soft drug) with hard drugs such as opium, morphine, heroin and cocaine, and this categorisation has persisted ever since .

The Union government passed the Medical, Dental and Pharmacy Act No.13 in 1928, which dealt with the sale and use of opium and other habit forming drugs. Dagga /Indian Hemp appeared in the 5th schedule, habit forming drugs, with cocaine, opium and morphine. The tradition was maintained in the Abuse of Dependence-producing Substances and Rehabilitation Centres Act No.41 of 1971 and the later Amendment Acts (of which there were 5) , wherein cannabis appeared in Schedule I, 'Prohibited Dependence-producing substances' together with heroin, opium etc.

The advent and progress of cannabis criminalization makes the following observation by Brown(1993:287), ring piercingly true,

For more than four centuries, Europeans have debated their policies towards tribal societies...But rarely have they listened to the voices of the tribal societies themselves, and in most cases, the recommendation has been that indigenous peoples integrate themselves into the dominant society...No one was seriously concerned about people's real desires. Most policies towards indigenous people have been based on the notions of progress and improvement.”



Cannabis Market and Economics

The exact size of South Africa's total annual dagga economy is a contested issue, with estimates ranging from R7 billion (Lt. Col. Mason, SANAB, on 'Two Way', 1995), to R12 billion (*Indicator SA*, in Ebersohn, 1994), to R40 billion (Drug Enforcement Agency [DEA], 1993; also David Hallowes on 'Two Way', 1995). Cannabis is cultivated on a large scale by rural communities, particularly in KwaZulu/Natal, Swaziland, Transkei and eastern Transvaal. The annual cannabis production is approximately 2000 metric tons (DEA, 1993). For rural communities greatly disadvantaged by apartheid, which resulted in their being forced onto the most infertile lands unsuitable for most agricultural activities, cannabis is a vital cash crop. The cannabis plant is extremely hardy, and grows very quickly in almost any climate and soil condition (McClellan, 1993). The plant has few natural pests, it does not require much water and can even survive drought conditions (Herer, 1991).

According to Keith Cooper of Wildlife Society S.A ('Two Way', 1995), income generated from cannabis cultivation has helped to uplift disadvantaged rural communities, for example, in a village in Transkei, cannabis sales funded the building of a primary school (DEA, 1993).

The DEA reports that cannabis farming earnings are twenty times higher than the average earnings of a farm worker. Nevertheless, David Hallowes ('Two Way', 1995) observes that of total cannabis economy of R40 billion, only one billion is going into the rural economy. Evidence supporting this is provided by the DEA report (1993) which states that in 1989, farmers allegedly received R41.40 per kilogram of cannabis which had a street value of between R1386 and R2070. The economic advantage goes to the criminal syndicates.

SANAB's annual eradication project aims to destroy the cannabis supply at its source (DEA, 1993). Earlier this year about 200 hectares of cannabis lands were sprayed to destroy cannabis growing thereon (David Hallowes, 'Two Way', 1995). In order to avoid the

detection and eradication of crops by the police, cultivators are tending to grow cannabis in more remote areas on steep slopes, and as a result , says Keith Cooper, cannabis farming is damaging environmentally fragile areas.

The main drug users in South Africa are young people between the ages of 15 and 28.

When cannabis cultivation takes place on steep, remote slopes such as in the mountainous areas of Lesotho and Transkei, after harvesting and drying, it is transported by individuals on donkey- or horseback to more accessible areas where it is loaded into vehicles and taken to the distribution areas (DEA,1993). At strategic times of the year, SANAB has roadblocks in suspected areas to prevent the cannabis loads from reaching the consumer market(DEA,1993). Most of the cannabis grown in South Africa is consumed by the local market(DEA,1993).

On the street, dagga is sold in a variety of forms, the most common of which are 'bankies' - these are plastic bank packets filled with loose dagga (Eberson,1994); 'stoppe' - dagga is tightly rolled into a cigar shape and wrapped in brown paper or newspaper (Searl,1989); and 'bricks' - the dagga is wet and then pressed with a pressing machine into a block (Lt Jan Conbrink, SAPS, 'Two Way',1995).

In South Africa dagga is often mixed with crushed mandrax tablets and the mixture , smoked through a broken-off bottle neck is called a 'white pipe'. Mandrax is the tablet form of methaqualone a synthetic sedative with a high potential dependence (SANCA). 'White pipe' use is most prevalent amongst teenagers (DEA,1993).

In fact, the DEA (1993) reports that the main drug users in South Africa are young people between 15 -28 years old. According to Patience Tshabalala from the Centre Alcohol and Drug Abuse ('Two Way',1995), black children are battling to pass matric and one of the reasons is because they are abusing dagga. She says "we have got children who are not even able to pass Bantu Education matric, not to mention good matric. There are children out there in the streets, 10 000 children just in Johannesburg, those children are on drugs, especially dagga." Veteran anti-drugs campaigner, Adele Searll, emphasises the dangers

of cannabis abuse for young people whose physical and emotional maturation can be disturbed

as a result of abuse. Mrs Searll says that she receives phone calls almost on a daily basis from mothers whose children are abusing dagga. On the day I interviewed her, she had spoken to one such mother whose son “Just lay curled up on his bed in a foetal position”, he had been using dagga since the age of 13 and now he keeps telling his mother “my brain is fried”.

At the local level (the 3rd tier on Mr Visagie’s drug trade triangle), the dealing of cannabis is done by peddlers and according to Mr Visagie this is where gangs start interacting for control over distribution areas.

Charles Carrolosin of SAPS Gang Unit, describes an evolution of Western Cape gangs over the past three decades : In the 60's gangs such as the Goofies, the Jesters, the Mongrels and the Globe gang were created and were involved in petty theft and housebreaking. At that time gangsters who were usually over 20 years of age, had respect their communities, older people and community norms. Gang fights were mainly one on one fist or knife fights. In the 1970's communities were broken up and displaced to the Cape Flats. On this, Pinnock (1985) describes that the ‘web’ of extended family and community social protection structures were destroyed. The age of gangsters decreased to anything from 15 years old and gang fights began to pick up. In the 80's, the age of gang members dropped to a new low of 12 years old and above. Gang fighting became more sophisticated and the gangs controlled larger areas. Increasingly the gangs were controlled by drug lords and shebeen owners. In the 90's the gangs are becoming increasingly sophisticated, organised and professional under the control of the drug merchants who wield great power and possess large amounts of money. Nowadays, children as young as 6 years old have been known to be gang members . Young people join the gangs, in Mr Carollissen’s words “to be heros, to feel wanted, because gangsterism proves them with a way of life, with social support and security”.

Methods of gang fighting have become more sophisticated with 90% of fights involving guns - machine gun’s, AK47's, handgranades etc.. There are approximately 200 gangs in the Western Cape but the two most powerful gangs are the Hard Livings (H.L’s) and the Americans. These

gangs are becoming the most organised and pervasive. Drug Lords rule the gangs inside and outside of prison - the 28's prison gang is ruled mainly by drug lords. According to Mr Visagie, 80% of the prison population belongs to some sort of gang.

Overall, gang power in the hands of drug merchants is increasing and becoming more centralized. Some gang leaders are moving to the upper tiers of Mr Visagie's Drug Trade Triangle, into the national and international levels.

Some South African cannabis is exported to the Netherlands and the United Kingdom (DEA,1993). Cannabis has been smuggled out between the works of legitimate cargoes of computers and photocopier machines. Lt Jan Combrink ('Take Two',1995) describes how syndicates in Johannesburg's Northern suburbs have smuggled dagga out of the country in what is called a 'chocolate box'. This is a hollowed out chess board into which a brick of dagga 'like a chocolate block', is placed. Interpol (1994) reports that international cannabis trafficking is a multi-billion dollar industry with cannabis the most popularly used and cultivated drug worldwide. Cannabis supplies are available in huge quantities in many countries. Attracted by the promise of great profits, entrepreneurs in Western Europe and North America are developing new, more scientific techniques of cultivation(Interpol,1994). In England, indoor cannabis cultivators can produce cannabis valued between R14 500 - R23 200 from one metre of plants. There is a growing international trend towards using cannabis in combination with alcohol, organic solvents and pharmaceuticals (Interpol,1994).

International cannabis trafficking is a multi-billion rand industry.

Current Debates

Cannabis categorization and criminalization only became an issue for Westerners during the so called 'hippie era', when as James, writing around that time, observed ,

Permissiveness is accepted as a new way of life,...established taboos have been displayed as unacceptable superstitions by young people crusading against ancestral authority.(1970 :576)

As part of that crusade, young Westerners plunged into traditional drug taking rituals of other cultures with gusto, much to the distress of their conservative elders. Cannabis use could no longer be indicative of an 'unchristian', ' uncivilized' and 'immoral' person, since as Bonnie (1980:24) suggested 'Marijuana users are no longer 'outsiders', but drawn instead from the social mainstream.' In South Africa, Du Toit observes,

The general public in the past has thought of cannabis use as a problem identified with the African or other political minority groups. A number of writers have pointed out that it was increasingly associated with the 'poor-white' and James warned that 'it has become permissive among the white elite male youths of this country.(1980 :63)

Such observations should be considered in juxtaposition with Bonnie's suggestion that,

In the past, marijuana use was identified with immorality, criminality and degeneracy, and the possession offence was a convenient device for punishing the marijuana user. (1980:24)

The criminalization of cannabis and the assimilation of cannabis with so called hard drugs, was created not so much from concern for the drug user but rather from disgust for their deviant non-Western culture of which their cannabis use was nothing more than an indicator.

When young 'mainstreamers' began to use cannabis, the meaning/ intention of cannabis criminalization sustained a subtle and complex (semi-)transformation. At some level, perhaps only subconsciously, criminalization was still a defence against the colonization of Western

youth by “heathen” culture. More obviously, criminalization represented a rejection of ‘permissiveness’ and ‘hippiedom’ of which cannabis use became indicative. However, at the forefront of the ‘transformed’ criminalization was a **genuine** concern for health risks of smoking cannabis. While the concern was genuine, the genuineness of the health risk seems to exist to this day in a haze of confusion and contradiction . Perhaps as a result of the original “Cannabis Stigma”, the enormity of the health risks posed by cannabis use was exaggerated .

Thus the universally adopted solution was to eradicate “Vyand nr.1”. “Dwelmmiddels :vvyand nr.1” is the title of an important book on the drug issue published in South Africa in 1972 , the book is evidence of the strong link between cultural differences and drug hysteria. One of the contributors to the book, Grobber, claimed that drugs would undermine the values of the West, corrupt Western youth and as a result the world would be open to Communism (1972, in Gordon, 1994). The Fear of communism in South Africa was strongly linked to anti-Black sentiments, since at that time many black liberation fighters were being trained in the communist ideology in communist countries.

In opposition to criminalization is the legalisation lobby. During the 60's and 70's arguments in favour of the legalization of cannabis were at an all time high. However, according to Dr R.L. Du Pont (1994), director of America’s National Institute on Drug Abuse, the legalization crusade died politically after 1978 when the US moved into ‘Drug War’ mode. There is little evidence to suggest that legalization arguments ever had any political weight in Christian National Apartheid South Africa.

Commonly cited arguments for and against cannabis decriminalization fall into 6 broad categories : physical harm, economic, social, medicinal, philosophical, and environmental. Here follows a list of the for and against arguments in each category:

PHYSICAL HARM

FOR	AGAINST
<p>*“It is clear that cannabis is a potent drug having as wide a capacity as alcohol to alter mood, judgement and functioning ability. But we think that it is also clear that in terms of physical harmfulness, cannabis is very much less dangerous than opiates, amphetamines and barbiturates and also, less dangerous than alcohol”(Advisory Committee on Drug Dependence ,Summary Report on Cannabis(1969).</p> <p>* Researchers have concentrated a lot of time and effort on investigating negative effects of cannabis but have been unable to find any substantial drawbacks to the drug. There is evidence to suggest that cannabis is no more harmful than caffeine. The claims of a small group of white middle class psychiatrists that LONG-TERM use causes confusion , instability and alienation are suspect since most cannabis uses are black and not middle-class.(Dr.V.Coleman, 1992).</p> <p>* “Cannabis generally does not create problems to users” (The Drug Policy in the Netherlands,1995)</p> <p>*A fatal dose of cannabis is about 3.2kg of flowering tops ingested over a 24hr period. ‘Needless to say, there are no known cases of cannabis overdose causing death.(McDermott,1993)</p> <p>*The stepping stone theory is a myth - the one drug whose use is statistically a stepping stone to other drugs is alcohol(Bonnie, 1980).</p> <p>* “There is nothing miraculous about dagga that leads to heroin and LSD” (Dr S. de Miranda, SA Council on Alcoholism and Drug Dependence, in Ebersohn,1994:82)</p> <p>*most heroin users have previously used alcohol and tobacco(Dr V.Coleman,1992)</p> <p>* Criminalization itself is the cause of the so-called stepping stone, when a person buys dagga he/she has to buy it from the same people who sell other illegal drugs; dealers have an incentive to promote the sale of more profitable drugs. (Don Pinnock, 1995)</p> <p>*The often cited lack of ambition of cannabis abusers is not peculiar to cannabis abusers only but rather a general “feature of drug dependence whether it be dagga, alcohol” or any other drug . (Dr.deMiranda, in Ebersohn,1994:86)</p>	<p>*Dagga smoke is hazardous to health and can adversely effect the lungs, brain, immune and reproductive systems. (Dr.RL Du Pont, director of America’s National Institute on Drug Abuse,1994)</p> <p>*Dagga smoking is detrimental to the physical and emotional development of young people (Adele Searll, anti-drugs campaigner,1995)</p> <p>* “In my experience young people begin with dagga and then ‘graduate’ to other drugs”(Cornelius Venter, National Head of SANAB).</p> <p>*Surveys have shown that dagga is a stepping-stone drug and people who use dagga are more likely to use other drugs than non-users because dagga changes attitudes : often the dagga smoker does not think rationally and loses his/her natural fear of new drugs.(Adele Searll, Anti-drugs campaigner,1989).</p> <p>*In South Africa cannabis is smoked with mandrax, legalizing cannabis will mean an increase in this practice</p> <p>*Dagga smoking causes amotivation syndrome. (Searll, 1989)</p> <p>*Legalization may cause an increase in demand , and potentially result in an increase in health problems and the number of accident-related injuries.</p>

ECONOMIC

*Criminalization is extremely costly, rescoues are diverted from more important areas.(Bonnie, 1980)

* "Due consideration should be given to the definition of crime and the impact of such crime on the maintenance of safety and security. So for example being in possession of a dagga 'stop' may be a crime in term of the statutes, but how does this crime measure up to the maintenance or lack thereof of safety and security. Should victimless crimes be pursued as vigorously and resourced equally as crimes against vulnerable sectors of our society. (Zelda Holtzman, SAPS CMT,1995)

*The lower range annual resource cost of cannabis criminalization(arrest-prosecution) is approximately R39 - R107 million (Previously worked out in this paper).

*People are sitting in prison for minor possession offences (Golden Miles Bhudu, SAPHOR, on "Two Way",1995)

-the daily average cost per prisoner is R64 , the punishment costs must be added to the figure R39-R107 million.

*If cannabis is legalized the multi-billion rand industry could be taxed (Mc Dermott, 1993)(the cannabis industry generates R12 -R40 Billion, the lion's share of which goes to the criminal syndicates).

*Hemp (Cannabis Sativa) is a rich source of fibres which can be used to make twine, rope, and cloth (from canvas to linen) (see Appendix **C** Evening Standard article "Feet and Two Veg"). Dried stalks can be used to make paper (~~from this page in the book of~~ paint, and building materials (from chipboard to insulation roll).Converted Hemp Biomass is a potential substitute petrol and coal. The cannabis plant grows easily and is very hardy and with all these alternative uses has the potential to boost the farming economy.(Downes,1990; Herer,1991; Horgan,1990; Maisel, 1994; McClellan,1993; Maylon&Henman,1980 Pearce,1994)

* "There are only two groups who benefit from criminalization - one the one hand, the criminal syndicates and on the other the Narcotics bureau has a vested interest because their jobs are based on narcotics enforcement"(Jennifer Wild, human rights lawyer, on 'Two Way' 1995).

*The ability of criminal syndicates to adapt should not be underestimated, if drug syndicates no longer trade in cannabis, they would be encouraged to step up sales of drugs such as heroin and 'crack' cocaine.

(International Narcotics Control Board)

*For this reason, legalization of cannabis alone and not other drugs , would be disastrous (Dr. V Coleman, 1992)

*legalization could lead to an increase in demand cannabis, which could be costly for health care systems.

*Legalization could be disastrous the rural economies which rely on the illegal cash crop their survival.

SOCIAL

* "Penalties against possession of a drug should not be more damaging to an individual than the drug itself"(Jimmy Carter,1977)

*to protect our children we should decriminalize because when "dagga is outlawed only outlaws have dagga". The child is drawn into a criminal culture.(Jennifer Wild, Human Rights lawyer, on "Two Way",1995)

*When a person is tried as a criminal and found guilty and given a criminal record, that person is stigmatized and alienated from society:

'Many young people might commit criminal and deviant acts, but they did not become criminals and deviants unless they were caught and branded and drawn into the criminal justice system, whereupon they learned the lessons of deviant motivation from the labelling process.(Pearson,1994:1190)

*80% of prisoners belong to some kind of gang.

*In some sub-cultures, going to prison is like a right of passage for a young person, so the deterrence value of imprisonment is questionable.

*Drug abuse and the hazards of drug use are a health problem, and enforcement distorts the health problem into a crime problem.(Dr. V Coleman,1992)

* "Criminalization is a crimogenic multiplier"(Wiarda,1989)

*Legalization allows the separation of drug markets and protects cannabis users from the criminal underworld in which the trade in hard drugs occurs i.e it destroys the stepping stone. (Dutch Drug Policy,1995).

*In the Netherlands the lenient policy towards cannabis , did not result in an increase of cannabis use nor did it cause an increase in hard drug use; on the contrary the separation of the markets it is believed has contributed to the control of the hard drug market. (McDermott, 1993; Dr.v.Coleman.1992).

*Dagga has been used for social purposes by non-Western peoples for centuries.

*Legal sanctions help to deter potential **abuses** of cannabis, and slow the growth of the illicit market. (INCB,)

*The widespread use of dagga among black school children is causing disruption in the schools and many youths are unable to pass matric as a result of dagga abuse.(Patience Tshabalala, Centre Alcohol and Drug Abuse, on 'Two Way',1995)

*Dagga **abuse** causes family, work and overall social disruption.

*To decriminalise dagga would be sending out a message to young people that it is alright to smoke **dagga. Children cannot use dagga, or any other drug, responsibly, and it 'destroys' young lives** (I'm not talking about adults, they've done what they've had to do, finished school and are developed, they can do what they like).. I'm not saying specifically that dagga abuse is any worse than alcohol abuse, or that criminalization has solved the problem of abuse; however, to make another drug legal, to sanction the use of another drug, is no solution either. There is nobody who has worked with dagga addicts who would advocate legalization (Adele Searll,1995).

*I strongly believe in the importance of education about drugs; however, if you think that decriminalization and education is the solution - what about cigarette smoking? There have been huge education campaigns about smoking and yet there are many people who still smoke - people just don't care, but legal sanctions do deter (Adele Searll, 1995).

*South Africans do not want legalisation - in a recent national survey, 77% of adult blacks and 85% of adult whites said 'NO' to legalising dagga and making it freely available to people over 18 (Research Surveys, 1995)(see Appendix A for the raw data and conclusions).

MEDICINAL

* "Cannabis has been one of the world's major medicinal plants" (Schultes, 1973:59).

*Cannabis has been used thousands of years up to modern times in many countries for medicinal purposes until this century when it became a prohibited plant (Dr.L.Grinspoon, 1992).

*Nowadays cannabis is increasingly acknowledged to be useful in the treatment of these conditions: Cancer - it alleviates nausea, vomiting and loss of appetite caused by chemotherapy; AIDS- alleviates nausea, vomiting and loss of appetite caused by the disease and by treatment with AZT and other drugs; Glaucoma - reduces intraocular pressure, alleviates the pain and slows or halts the progress of the disease; Multiple Sclerosis - reduces muscle pain and spasticity, may relieve tremor and unsteadiness of gait ; Epilepsy - prevents seizures in some patients; Chronic pain - reduces the chronic, often debilitating pain caused by a variety of injuries and disorder (NORML, 1995; Dr L.Grinspoon, 1992; Thamm, 1995; Administrative Law Judge Francis L. Young, 1988)

*Cannabis should be available for medicinal purposes under very strict conditions (Adele Searll, 1995).

*Cannabis is cheaper than most antiemetic drugs , has milder side effects and can be smoked on an empty stomach. example one of the most effective antiemetics is Zofran which costs R100 per injection - two required on the day of chemotherapy-, another less expensive drug is Stemetil which costs R33 a four-day course of tablets(Frances Ames, neurologist, in Thamm, 1995). A study on the use of cannabis as an antiemetic prescribed a total dose of approximately one cannabis 'cigarette' (10mg) on the day of chemotherapy (Vinciguerra, Moore, Brennan, 1988). In 1993 the DEA reported that in South Africa **one gram**. of cannabis cost \$0.23 , in Rands that is R0. 69.

* "Marijuana, in its natural form, is one of the safest therapeutically active substances known"(DEA Administrative Law Judge, Francis L. Young's ruling in 1988).

*Doctors are unlikely to prescribe cannabis because "Marijuana contains at least 60 active substances, with an unknown mixture each time. And there have been no trials on these substances, people would be aghast if we tried to introduce a new drug without such trials"(Dr Heather Ashton, professor of pharmacology at Newcastle University, in Pearce 1994:).

* "The folks who promoted drug legalization went into a phone booth, put on white coats and came out promoting marijuana as a medicine, playing on public sympathy by focussing on painful and often fatal diseases which there are few good treatments..."(Dr R .L Du Pont, director of America's National Institute on Drug Abuse, 1994)

* According to scientists at America's National Cancer Institute, cannabis is not as effective as other drugs in controlling the nausea and vomiting after chemotherapy(Dugan, 1994).

**In Appendix B is a Bibliography of 72 scientific journal articles which investigate the therapeutic benefits of cannabis.

PHILOSOPHICAL

*Cannabis criminalization is detrimental to the credibility of State legal institutions - the recognition by drug agencies that cannabis is so widely used despite the 'war on drugs' makes these agencies seem ineffective; the law suffers disobedience and ridicule as the credibility of the law's proscription is questioned because of the hypocrisy of prohibiting cannabis and yet leaving a more dangerous drugs such as nicotine and alcohol legal. The honour and wisdom of the law is completely undermined. The imposition of criminal sanctions for transgressions of possession laws result in a large number of annual injustices and the brunt of the law is directed at the disadvantaged(Bonnie,1980).

* "We should not bring children into it because if you use the argument of children, you still have to explain to children why it is O.K. to drink alcohol and not to smoke dagga. Otherwise children will accuse us of being hypocrites and they will be right"(Minister Mzimele, on "Two Way",1995)

* "The problem is not ganja the problem is that we people have lost our family values, it is the parents who must protect the children and when you grow up you have got to make the choice 'I want to take ganja', just like you make the choice 'I want to take alcohol'"
(Anonymous, on Two Way, 1995).

*cannabis criminalization is an unnecessary violation of an individual's constitutionally guaranteed freedom.

*The 'War on Cannabis' is more aptly called a 'War on Culture'. It is rooted less in concern over the effects of cannabis, than it is in (perhaps even a subconscious)rejection of the non-Western cultures who traditionally use cannabis socially, religiously, and medicinally.

* "To reduce penalties for possession, sale or supply of cannabis would be bound to lead people to think that the government takes a less serious view of the effect of drug taking"(British Home Secretary, James Callaghan, 1968 in Coleman,1992:14)

*"Drugs are an evil to be fought not to be accommodated" (*The Times*,1989, in Coleman, 1992:15)

* "A government which gratuitously added one more health risk in order to ease its task would forfeit public respect"(*The Gaurdian*,1989,in Coleman, 1992:15)

* I can't stand people who intellectualize about decriminalization, and idealise about massive education programmes and social upliftment - its just not going to happen : in the government people are stealing money all the time. Anyone who has worked with addicts would not advocate decriminalization (Adele Searll, 1995).

ENVIRONMENTAL

*Cannabis criminalization is causing the cannabis cultivators in rural areas to move their crops to the high and remote mountain slopes to avoid police detection, these are more environmentally sensitive areas which are now becoming eroded and the natural vegetation is being destroyed (Keith Cooper, Wildlife Society of South Africa, on 'Two Way', 1995).

*Methane and methanol from cannabis/hemp biomass could replace 90% of the world's energy needs. Hemp is a vegetable source so it is renewable, cheap and clean. (Downes, 1990)

*The clearing of indigenous trees and the commercial cultivation of exotic trees, with far greater water demands, for the paper and timber industries is an important environmental problem in South Africa. Cannabis/hemp requires much less water than, for example, pine trees; "every tract of 10 000 acres which is devoted to hemp raising year by year is equivalent to a sustained pulp-producing capacity of 40 500 acres of average pulp-woodlands", and hemp hurds require less chemical processing because they contain approximately 4% lignin as opposed wood's 18-30% lignin content, and thus hemp hurds are less costly and less polluting to process. (Maylon&Henman, 1980).

*Hemp fibre can be used to produce from fine linen to heavy duty canvass, cotton has only 1/3 of the fibre yield of hemp, and the cotton processing is extremely chemically intensive and thus polluting (Masel, 1994; Herer, 1991)

*The SANAB spraying programs in KwaZulu/Natal incorporate the use of glycefate, which has caused environmental damage and there is evidence of damage to other crops (besides cannabis) (Hallows, on 'Two Way', 1995).

*Quentin Jones of the United States Agricultural Research service acknowledges that hemp is versatile but says that other plants can fulfill the same roles more economically. (in Horgan, 1990).

*SANAB claims to be very careful with its eradication projects not to cause any unnecessary environmental damage (DEA, 1993).

Disillusion with the drug war has caused a legalization revival which is occurring within the framework of a subtly altered discourse, the new fashion is to talk about decriminalization. Human Rights lawyer, Jennifer Wild, explains : “legalization states that the use of the drug is alright; decriminalization recognizes that there is a social problem involved with using the drug but that it shouldn’t be linked to a criminal sanction and law enforcement”(Two Way,1995). In the new South Africa decriminalization is making its political debut with the support of the Minister of Correctional Services, Minister Mzimele, who recently asserted “No-one has ever been able to explain to me why it is a crime to smoke dagga” and advised that the cannabis question should be “looked at soberly and without hysteria”. (Two Way,1995).

The tabulated arguments have, for the most part, been in circulation for some time, in some socio-political circle or another, collating both sides in a rational manner prompts the following summary observations:

Abuse - which implies more than simply to use, but to misuse, to use excessively - of any drug, be it alcohol, cannabis or anything else, can cause physical and/or social harm. Cannabis is a drug that can be used without any worse effects than alcohol, also used i.e. in moderation. When abused, the effects of cannabis may even be less severe than a drug such as alcohol, for example there is no evidence of any cannabis overdose fatalities. However, the physical effects of cannabis remain in a semi- mythologised state - for every piece of expert evidence that says that cannabis is very harmful, more harmful than a socially acceptable drug such as alcohol; there is another piece of expert evidence to the contrary. For example, Dr de Miranda is quoted as saying that amotivation is a symptom of many drug addictions, including alcohol and cannabis addictions; in response, Adele Searll, whose latest ‘drug’ book is soon to be published, said that she doesn’t know where Dr de Miranda ‘gets that’ because every drug expert in the world knows that cannabis specifically causes amotivation - more quickly than other drugs. Another

example, cannabis smoke is said to contain 6 times more cancer causing properties than ordinary cigarette smoke, pro-decriminalisation group NORML observes, however, that 'nicotine' smokers smoke many more cigarettes in a day than cannabis smokers do so that the figure is misleading; Adele Searll adds that cannabis smokers inhale far more deeply than cigarette smokers so more toxins go into the lungs? It is extremely difficult to untangle the webs of information that have developed around cannabis.



Cannabis is a problem if it is abused, not if it is used.

Youths generally use drugs irresponsibly in social situations, they abuse drugs. Irresponsible drug - this includes alcohol, nicotine, cannabis and all other drugs - taking can be harmful to the normal development of a young person.

Although legal sanctions might deter some people from using cannabis, they do not prevent those people from using other legal drugs (alcohol, nicotine, solvents/glue, cough medicine etc.)

And a person who has a need, a reason and/or a predisposition to abuse drugs, and who has been deterred by legal sanctions from using cannabis, will still become a drug addict. Whether a person is a cannabis abuser or an alcohol abuser, in physical-harm terms is case of 'six of one and half a dozen of another'. However, because, and only because, of criminalization, an illegal-drug abuser (and even user) is probably likely to be placed in more dangerous and compromising situations and suffer more social damage than a legal drug abuser/user.

In the case of children, Searll describes that when she goes to give talks at schools she knows there are three categories of young people in the audience, one of which is a small group who do not and 'are not the kind of people' who use drugs because they are deterred by legal sanctions. Thus Searll argues that cannabis criminalization is useful - it would be interesting to further research the issue of whether those young people who do not use cannabis because they

are deterred by prohibition are also deterred from using alcohol which is not prohibited but which is not supposed to be sold and used by unsupervised people under the age of 18.

If an adult can use cannabis without threatening the safety and security of other people and him/herself does it make sense to punish that person? Why should a minimum of R3000 worth of resources be directed at tracking, trying and tarnishing that person - why should a person's life be disrupted by a deed which is not in itself disruptive? And if drug abuse is disrupting a person's life and the lives of his/her family, does disrupting their lives further really help to cure that abuse? Consider these words by the mother of a drug addict (cannabis) :

It was a very traumatic time at home, especially for our youngest daughter, who was nine when it all started. She suffered a great deal because I did not have much time or patience to devote to her needs. All my energy was channelled into striving to keep my son out of trouble. My greatest fear was that he would end up in jail...(Searll,1989:15).

If cannabis decriminalisation was to occur recklessly , without an extremely intensive education campaign -, young people would definitely interpret the move as indicating that cannabis is safe, which is not true of any drug used irresponsibly by young people. In the present socio-economic climate in South Africa, the fear that a sufficiently intense education campaign would not materialise is not wholly unjustified. However, a sustained and effective education campaign can be very effective, for contrary to Searll's assertion, education about the dangers of cigarette smoking has had a great impact on people's attitudes towards smoking and smoking habits.

The experience of the Netherlands suggests that a more lenient approach to cannabis does not lead to an increase in demand, however, the socio-economic climate in South Africa is quite different to that of the Netherlands and thus evidence from the Netherlands is not strictly applicable to South Africa. In addition, a recent government publication on the future direction

of Dutch drug policy indicates a tightening-up of the 'turn-a-blind-eye' approach - for the sale of soft drugs in the coffee shops, prosecution proceedings will be initiated for the sale of quantities in excess of 5 grammes instead of the current maximum of 30 grammes(Poley,1995)*.

To a certain extent, however the implied threat of an increased demand following decriminalisation is based on the faulty premise that legalizing cannabis will draw non-drug users into drug use. The flaw is rooted in an incorrect linguistic and political-perceptual understanding of the term drug, and the resulting implication that cannabis use/abuse has more serious side-effects than for example, alcohol use/abuse. Most people use drugs and if an adult who uses alcohol (i.e. responsibly and in moderation) chooses, after cannabis legalisation, to try or to switch to using cannabis - a drug which is no more, and possibly less harmful than alcohol- there is no reason to be alarmed about this. It is highly unlikely that, for example, a teetotling non-smoker will start taking drugs, just because cannabis is legalised.

The resource cost of cannabis criminalization is high. South African police are overextended and the courts and prisons are notoriously overcrowded and cannabis criminalization has had little success quashing cannabis use or preventing cannabis abuse . However, venturing into the uncharted waters of decriminalization has risks , since there is presently no country in the world in which cannabis is totally legal which could be used to guide any South African effort in that direction. Certainly, there are countries in which use is not an offence, however, in these places cannabis'use' exists in a limbo between illegal and legal since dealing is invariably illegal.

Of course, a little over a century ago, cannabis was legal virtually everywhere in the world, so perhaps the answer to what will be the effect of decriminalisation/legalisation lies in an historical analysis ; however, due consideration would have to be given the substantial social differences between the present and the past.

*While drug use is not an offence in the Netherlands, contrary to some popular conceptions, cannabis is not a legal substance and cannabis dealing is a crime, however, the policing policy was to turn-a-blind-eye to the crime of dealing in small amounts of cannabis in youth hostels and at the coffee houses.

It would be a luxury that South Africa could ill afford if prejudices resulting from the abuse of cannabis were to continue inhibiting the many other uses of cannabis.

The illegal cannabis industry like its legal drug industry counterparts, generates billions of rands annually, and the 'lion's share' of this money is in the hands of criminal syndicates which are becoming increasingly powerful and dangerous as a result.

Ideally, if using, selling and producing alcohol is socially acceptable and legal; so too should using, selling and producing cannabis be socially acceptable and legal, and as with alcohol, the cannabis industry should be regulated and taxed. Part of the money generated by this industry should be going back into the maintenance of social supports (as opposed to the maintenance of gang and syndicate power).

The money generated by the cannabis drug industry could potentially be dwarfed by what could be generated by the cannabis/hemp fibre, oil and biomass industries (see Appendix C, and note that this page is made of cannabis/hemp paper [imported from India!]). It is possible that cannabis/hemp could make a significant contribution to the RDP, and its potential should at the very least be investigated. Even if the stigma and the prohibition of cannabis drugs is maintained, research and development into the cannabis/hemp industries should not be prevented, particularly since it is possible to grow low THC (THC or Tetrahydrocannabinol is the psychoactive component of cannabis) cannabis/hemp which has no potential for intoxication - the industrial uses of cannabis must be recognised and treated as a separate issue to the social abuses of cannabis. In France, Spain, and in the UK, a few licences have been given for the growing of low THC cannabis/hemp (Maylon & Henman, 1980; Pearce, 1994). It would be a luxury that South Africa could ill afford if prejudices resulting from the abuse of cannabis were to continue inhibiting the many (some say thousands of) other uses of cannabis. The fact that cannabis/hemp offers 'environmentally friendly' alternatives to the paper, cotton and fuel industries is also significant - water is a precious resource and if cannabis plants require much less water than pine trees, the water savings could be tremendous. Approaching the issue laterally, there is also, from an economic point of view, the consideration that reducing pollution and preserving South Africa's indigenous flora and fauna, constitutes an investment in the tourist industry.

Cannabis has undoubtedly been one of the world's major medicinal plants, whether or not cannabis constitutes a better alternative to other modern medicines is an issue that requires further investigation. However, if cannabis shows even reasonable effectiveness, its extraordinary low cost and the fact that it is easy to obtain and to administer are an important considerations, there are many contexts in which such considerations dictate the medicines used.

If cannabis is decriminalized, the medicinal uses of cannabis will also be decriminalized, however to conspire to decriminalize cannabis for medicinal use as a preparatory measure for total decriminalization, is not only backhanded, but for those advocating total decriminalization, it is also self-defeating, since if cannabis becomes entrenched in some other medical schedule, part of the domain of the medical profession, it is unlikely that it will ever be 'released' for use for pleasure alone. It is not really in the interests of pharmaceutical companies to verify the effectiveness of natural cannabis, because what would probably involve great expense, would not be rewarded by a patent and assured profits since cannabis can be grown in anybody's back yard. What is more likely is that, as has already happened, pharmaceutical companies have tried to create synthetic mimics of cannabis, such as Marinol and if these companies invest in such projects it is probable that they would be more inclined to discourage decriminalization and encourage professional classification.

The Challenge

The cannabis legalisation/decriminalization debate has been around for a few decades, and anyone who cared to look at the facts rationally would most probably have arrived at the conclusion that decriminalization/legalisation makes perfect sense. In fact, in the foreword of his book *Marijuana the Forbidden Medicine*, Lester Grinspoon (Grinspoon & Bakalar, 1993), laments that after the publishing in the sixties of one of his previous books on the medicinal uses of marijuana, he was so convinced of the strength of his evidence and argument that he felt certain that within a few years cannabis would be legal. Alas, in 1993 Dr Grinspoon's prediction was yet to be fulfilled, and marijuana remains a forbidden medicine. The logic of the cannabis decriminalisation argument cannot really be faulted, yet cannabis criminalization is not entirely logical and thus cannot be turned over by a logical argument, this is due to stigma. The tenacity of cannabis criminalization lies not in reason but in stigma. Stigmatisation results in decisions being made before any argument has been presented.

Erving Goffman(1967:13) describes three 'grossly' different forms of stigma:

- 1) abnormalities of the body
- 2) blemishes of individual character
- 3) tribal stigma of race nation and religion

Stigma is an elusive concept because it involves "a property, a process, a form of social categorisation, and an affective state"(Coleman, 1986:211). Stigma, implies interpersonal relationships and the cataloguing of differences the creation of social and moral hierarchies (Ainley & Crosby, 1986). Power is derived from stigmatization because it often results in a downward mobility of the stigmatized (the inferior), an in apposition a confirmation of the status of the non-stigmatized (the superior), thus stigmatization is a 'powerful social

tool'(Coleman,1986). "Through talk, tales, stories, gossip, anecdotes, messages, pronouncements, news accounts, orations, sermons, preachments, and the like definitions are presented and feelings are expressed...and a sense of group position is set" (Blumer, in Brown,1993:660). Irrational fears fuel stigmatization which can self-perpetuate in the absence of enforced legal or social segregation, however, the perpetuation of stigma is all the more voracious when entrenched, for example, by the Law (Coleman,1986).

Despite Goffman's determination of three 'grossly different' forms of stigmatisation, the "Cannabis Stigma" is an incestuous 'menage a trois' involving all three form of stigma . As previously discussed, there is a strong input of racial, and cultural stigma in cannabis criminalization, for the most part, now but an unconscious/unrealised residue of imperialism. More conscious fodder for the modern-day cannabis stigma, is the negative moral, socio-economic categorisation of 'drug' addict and the cataloguing of drug dealers as the ultimate 'scum of the earth'. The categorisation of cannabis users/abusers as sustaining 'abnormalities of the body' as a result of cannabis use, directs the third strain of "Cannabis Stigma". With all the forms, the stigma perpetuates and is perpetuated by the linguistic-perceptual divided between what can ostensibly be understood as those drugs which were primarily a property of non-Western cultures and those which were traditional in the West. And naturally, criminalization has almost irredeemably entrenched the "Cannabis Stigma".

Any stigma is a "web of complexities and paradoxes"(Coleman,1986:211), but because the "Cannabis Stigma" is an entanglement of three possibly discreet forms of 'stigma', it is a most unnerving, enigmatic enigma.

Nevertheless, South Africa is in a unique position to confront this perplexing phenomenon, because South Africa is in a window period of negotiated revolution and the necessity of changing mind-sets is at the forefront . South African's expect change and are perhaps more prepared change now than ever before or ever again.

The unravelling of any stigma requires a multi-disciplined approach involving, to name but a

few, historians, psychologists, economists and political scientists. Changing the “Cannabis Stigma” must involve input from all of these disciplines. Any Politician who sees the logic in and favours decriminalization but fears that promotion of such an approach would result in ‘political death’ and public uproar, should commence with a project of unravelling the “Cannabis Stigma”.

The task is an arduous one, but she who is victorious would potentially be breaking down the mental block against decriminalization, and opening the way for the logic of the decriminalization argument . Then *Cannabis Sativa L.* will once again become a **plant** which can serve people in **many** ways as it has done for millennia.

Recommendations

1) 'Honesty is the Best Policy'

2) The moral-linguistic categorisations need to be altered

- The false drug-divide must be bridged : people must be taught that drugs are a homogenous category, including Alcohol, Cannabis, Nicotine, Heroin, Cocain, Mandrax, Caffeine, Aspirin etc. The moral hierarchy that places the alcohol user in a morally superior position to the cannabis user, must be broken down.

*SUGGESTION - a) people's perceptions about these categories are fairly entrenched, thus the only solution is an aggressive re-education campaign aimed at all drug users ;(which means virtually all people). b) SANCA currently stands for South African National Council for Alcoholism and Drug Dependence, the false divide in this must be changed - obviously it is impractical to change the acronym SANCA but perhaps it could come to stand for **South African National Council for Substance Abuse**.

3) The hypocrisy of the Law's approach to drugs must be dealt with - while it may still be possible to justify criminalization of hard drugs such as heroin, cocaine etc on the basis that they present unacceptable risks to individuals and society (although some people might argue that this is an unacceptable justification {See Coleman,1992}, this is beyond the scope of this paper), the criminalization of cannabis cannot be justified. Although it is politically correct to talk of decriminalization - to adopt the 'turn a blind eye' approach but maintain illegality, to be lenient with users but harsh with dealers, in the case of cannabis, this is thoroughly perverse , hypocritical and illogical. In addition, it still results in wasted resources and opportunities. The fear of breaking with the UN conventions and becoming a 'pariah' represents a facet of Neo-colonialism. If the Law is to be honest cannabis must be legalised, regulated and taxed.

*SUGGESTION - Although people happily accept that alcohol is legally sold only

through licenced outlets - usually Bars, Bottle stores, Restaurants - they tend to become riled up about the Netherlands-style cannabis outlet - the 'coffee shop'. It is perfectly logical and practical to regulate public cannabis use by stipulating that it may be obtained only from certain licenced outlets by certain people. The advantage is that the use and sale can be easily monitored and supervised to ensure that regulations are met, such as , no under age customers, no other drugs on the premises (this, is important for two reasons, firstly, it separates the markets, secondly, it is a well known fact that drugs are more dangerous when mixed)- breaches of these offences would be subject to very harsh penalties .Also cannabis sales are more easily taxed in this way. The name of such places should not be euphemistic, like 'coffee shop' because the point is to be open and honest..

Of course, since smoking is generally becoming 'outlawed' in many public places, so too cannabis smoking should not be permitted in public places (because like nicotine smoking, cannabis smoking transfers the effects of the smoke onto unwilling secondary smokers). However, there should be no reason why cannabis tea should not be served in licenced public places, such as restaurants. Restaurants choosing to cook with cannabis should be permitted to do so only if ingredients are made clear to diners (as is usually the case with alcohol).

Obviously the unlicensed sale and **purchase** of cannabis would be a severe offence.

Small scale cultivation of cannabis for personal use, not sale, should not be an offence and need not be taxed. This would not seriously affect the functioning and revenue from regulation, since, alcohol is also easily made at home, however, it is much more convenient to buy it from a shop or at a bar.

Driving or operating heavy machinery after consuming sufficient cannabis to cause impairment of judgement should be a punishable offence.

4) DRUG ABUSE IS A SERIOUS PROBLEM - Part 1 .

-There is no such thing as a completely safe drug. All drugs , including cannabis, can be abused. Cannabis policy must aim to minimize the harms associated with cannabis consumption.

- Drug **use** is a social reality. It is only entirely 'bad' from a puritanical standpoint . Drug use can have positive effects (and obviously does, otherwise so many people from so many different countries and cultures would not have used drugs for so many centuries), for example, at the end of the day an evening drink is commonly accepted to be relaxing; some drugs in moderation boost confidence and thus enhance sociability. To pretend that there is no positive side to drugs, to make discussion of the positive side of drugs taboo, does more harm than good (rather like the Victorian taboo of sex) and makes it difficult to honestly explain to people how to use drugs and how not to abuse drugs. If you tell a (young) person that drugs are 'evil' and they experiment with drugs and find out that they make them feel good, why should that 'enlightened' person believe you when you say, use the drug in moderation, don't operate heavy machinery under the influence etc. For drug education to be effective it must be honest, and successful drug education is a vital aspect in the primary prevention of drug abuse. If cannabis is legalised people must be educated about the responsible use of cannabis. In the case of alcohol, people usually learn to use alcohol by example from their parents and there are extensive 'don't drive drunk'/friends don't let friends drive drunk educative campaigns. However, because cannabis has been illegal, cannabis use is a secretive business and people have not learned responsible use from their 'elders'(as was the case in traditional African society); also, there are virtually no campaigns to tell people not to drive 'high' (because you're not allowed to be 'high' in the first place).

*SUGGESTION - honest and informative cannabis/drug education programmes and campaigns.

DRUG USE IS A SERIOUS PROBLEM - Part 2

Some people are physically predisposed to drug addiction, however others become addicted amongst other reasons, because they do not realise the power of drugs, because of boredom, peer pressure or because of some personal discontent , sadness, or lack of self-respect. Any primary

prevention programme must take these into consideration and act on this knowledge.

*SUGGESTION - mobilize a national and community based 'RESPECT YOURSELF' programme. This could involve educative programs such as assertiveness training, conflict resolution as well as skills training. But most importantly, to attract youth, an ongoing national competition around the theme "Respect Yourself" could be developed to appeal to the talents of all people . Submission could be made in the form of songs, dances, music, drama, poetry, prose, art, design, film etc. In addition, small business developers, student researchers, community contributors, mothers, fathers, children, families etc. should also be able to send in contributions around the theme - i.e. about an act or an accomplishment that makes them respect themselves. It should be a kind of 'Respect Yourself Olympics' and should receive regular national media coverage. Such a program would perform the functions of giving, particularly young people, something fun to do and to aim for, something to respect themselves about, and cause to think about the reality that they do deserve to respect themselves (and not to destroy themselves by abusing any drug).



The circumstances of the world are so variable that an irrevocable purpose or opinion is almost synonymous with a foolish one

- *William Henry Seward*

Appendix A



OMNICHEK

An overwhelming "NO" to dagga or marijuana being legalised - so say teenagers and adults, both black and white.

This is the finding of a national survey conducted by Research Surveys. A total sample of 3400 respondents were interviewed in major metropolitan areas throughout South Africa. The sample comprised adults and teenagers (male and female) representative of both the black and white sectors of the population.

Respondents were asked if they thought that dagga or marijuana should be legalised and made freely available to people over 18 years old in South Africa. On the whole, the study shows an overwhelming score of respondents of the opinion that this should not be the case. Almost 85% of adult whites and 77% of adult blacks were of the opinion that dagga should not be legalised to people over the age of 18 years. Black and white teenagers expressed a similar point of view with 81% of respondents being in agreement with the latter finding. Black men were the most positive in their opinion towards the concept of legalising dagga with only 72% in favour of dagga not being legalised in comparison to white women of whom a whopping 87% felt it should not be made legal. Afrikaans-speaking whites expressed significantly stronger feelings regarding the issue of legalising dagga with a prevailing 92% of men and women responding in the negative.

Therefore, it appears as though the majority of South Africans are unaccepting in their views of legalising and thus rendering dagga freely available to the people of South Africa.



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Appendix B

ALLIANCE FOR CANNABIS THERAPEUTICS

GENERAL EXHIBITS

SCIENTIFIC JOURNAL ARTICLES

An Overview of Marijuana's Therapeutic Benefits

1. Hollister, L. "Hunger and Appetite After Single Dose of Marijuana, Alcohol and Dextroamphetamine," *Pharmacology and Therapeutics*, 12, 4-49 (1970).
2. Karniol I. & Carlini, E. "The Content of (-) delta-9- trans-Tetrahydrocannabinol (delta-9-THC) Does Not Explain All Biological Activity of Some Brazilian Marijuana Samples," *Journal of Pharmacology*, 24, 833-834 (1972).
3. Beaconsfield, D., Ginsburg, J. & Rainsbury, R. "Therapeutic Potential of Marihuana," *New England Journal of Medicine*, 289, 1315 (1973).
4. Perez-Reyes, M., Timmons, M., Davis, K. & Waller, M.E. "A Comparison of the Pharmacological Activity in Man of Intravenously Administered Delta-9-Tetrahydrocannabinol, Cannabinol and Cannabidiol," *Experientia*, 29/11, 1368-1369 (1973).
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Appendix C

HOW THE POLITICALLY CORRECT NINETIES SHOPPER MAKES A FASHION STATEMENT WITHOUT HARMING ANIMALS

Feet and two veg

HE WEARS

- Hemp seed hair oil (not tested on animals). £6 a bottle
- Leather-look flyer jacket with fake fleece collar (£85). The jacket is made out of PVC, the collar from polyester
- Fleecy sweatshirt (£34). Made from 50 percent recycled jeans and 50 percent recycled plastic bottle
- Non-bleached organic cotton T-shirt (£13.99). "Ethically-sourced" to ensure Egyptian cotton growers get a fair price
- Cotton-look shirt (£33). Viscose/acrylic/polyester mix
- Hemp and cotton black jeans (£60)
- Leather-look belt (£15-20). Made from PVC
- Vegetarian Doc Marten boots. Colours from lime green to cherry red (£49.95). Made from Lorica
- Hemp bootlaces (£2 a pair)



SHE WEARS

- Aran tudor hat. Hand-spun from undyed wool from the fleece of two sheep called "Shadow" and "Stanley" taken in by Farm Animal Rescue in Cambridgeshire (£22). Cruelty-free and "the ultimate for people who care" say the makers. Every item label mentions the name of the sheep it came from
- Aran sweater (£90). As above but this wool comes from a sheep called "Hunky"
- Hemp T-shirt (£10). Fifty-five per cent hemp, 45 per cent raw cotton
- Mock suede fringed jacket (£79). Made from acrylic/cotton/rayon mix
- Imitation leather mini-skirt (£27.50). PVC
- Women's knee-high boots (£130). Hand-made from Lorica. Vegan Society approval entailed ensuring that even the glue and wax on the threads hadn't either been tested on animals

THE veggie dresser is the latest fashion statement to hit the high street, writes Tom Leonard. Not content just to eat ethically, Britain's three million vegetarians and vegans are

threats. Organic dyed wools are coloured using minerals and plants. One vegan jumper-maker uses wool picked solely off the ground and unravelled from fences, while the Amano sweater is made of wool from a small South

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