

# IMPACT OF DECRIMINALIZATION OF GANJA ON THE LEGAL SYSTEM IN JAMAICA

By JACQUELINE CUMMINGS  
JAMAICAN BAR ASSOCIATION PRESIDENT  
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## EPIDEMIOLOGY DATA

- Ganja is widely used for recreational, medicinal (folk medicine) and religious purposes in Jamaica.
- The 1990 Carl Stone study persons age 15 and over island 47% in the Metropolitan areas and 43% in the rural areas had ever used ganja.
- Upper income group 46% of males and 25% of females had tried ganja,
- Middle income group were 33% of males and 10% of females,
- Lower income group 52% of males and 18% of females.

## EPIDEMIOLOGY DATA

- Ministry of Health in 1993 reported that among Jamaicans 15 - 49 years old 37% of the men and 10% of the women had ever used ganja.
- A 1997 survey by Ken Douglas among 8,000 in-school adolescents, grades 9 to 13, found 27% had had lifetime ever-use of smoked ganja, but 20% reported in a 1986 school study.
- In the 1997 study 20% reported ever use of ganja tea.
- 8% had smoked ganja
- 6% had had ganja tea.

## EPIDEMIOLOGY DATA

- National Council on Drug Abuse - for October 2000 shows that some of the clients admitted with a history of smoking ganja had their first use as early as between 5 and 9 years old.
- Of 282 clients who went into treatment for a ganja habit in 1999-2000,
  - 4% started using the drug from age 5 to age 9,
  - 26% from age 10 to age 14 and
  - 3% from age 15 to age 19, that is one-third of them started smoking ganja at the age of 19 or below.

## EPIDEMIOLOGY DATA

- Other studies have sought to look at any link between traffic accidents, trauma and drug use.
- Francis et al. (1995), in a pilot study of alcohol and drug-related traffic accidents and deaths in two Jamaican parishes, found evidence of alcohol intake in
  - 77.5% of fatalities and
  - 35.5% had alcohol levels above the legal acceptable limits;
  - 22.5% of road traffic fatalities tested positive for cannabis and
  - 3.2% for cocaine.

## EPIDEMIOLOGY DATA

- McDonald et al. (1999) study at UWI A& E Dept urine samples from 111 trauma over a three-month period.
- 8% of patients negative for any drug,
- 62% positive for one or more drugs;
- 15% for alcohol only,
- 15% for alcohol and cannabis,
- 25% for cannabis only,
- 5% for cannabis and cocaine,
- 1% for cocaine only, and
- 1% for all three.

## EPIDEMIOLOGY DATA

- Many patients admitted to the psychiatric services on the island report ganja use.
- **60-80 % of males admitted to the Cornwall Regional Hospital Acute Psychiatric Unit in 1999 gave a history of ganja use, although this was not necessarily the reason for their admission (Abel 2001).**

## PHARMACOLOGY

- Cannabis sativa contains 400 known chemicals.
- The family of chemically related 21-carbon alkaloids found uniquely in the cannabis plant are known as cannabinoids.
- There are sixty different cannabinoids.
- One of these, delta-9- tetrahydrocannabinol (THC), is the most abundant and accounts for the intoxicating properties of cannabis.

# THC

- THC dissolves readily in fat but not in water.
- When smoked, THC is rapidly absorbed into the blood stream, giving perceptible effects within minutes.
- When taken by mouth peak effect may not occur for hours but last much longer.
- The THC also persists in the brain longer than in the blood, so that psychological effects persist for some time after the level of THC in the blood begins to fall.

# Uses of Ganja

- Areas in which cannabis has been shown to have therapeutic use are:
- Reducing nausea and vomiting
- Stimulating appetite
- Promoting weight gain
- Diminishing high intraocular pressure from glaucoma

## Others Uses of Ganja

- Reduction of muscle spasticity from spinal cord injuries
- Reduction of muscle spasticity and tremors in multiple sclerosis
- Relief of migraine headaches
- DepressionSeizures
- Insomnia
- Chronic pain

## Why Decriminalize Ganja?

- Many were the submissions to us that addressed the danger to society already posed by criminalising ganja.
- A corollary of (c) above, the lumping of ganja users together with men who have committed serious crimes against the person only serves to corrupt them.
- According to many, the jailed ganja offender is often forced into a situation where unless he exhibits "bad man" ways he cannot survive the lock ups, or where he develops sympathy for hardened criminals or enter into relations with them.
- Having gone in as a law-abiding person, except for ganja, which no one regards as wrong, he returns a bitter opponent of the rule of law.

# Support for Decriminalization

- **Community Development Action Committees**
- **National Council of Drug Abuse**
- **Counseling Psychologist at the Bellevue Mental Hospital,**
- **Medical Association of Jamaica**
- **Roman Catholic Archbishop of Kingston**
- **Anglican Bishop of Jamaica**
- **Law Enforcement officers**
- **Political leaders**

# The Laws on Ganja

- **There are six Acts relevant to ganja in Jamaica, all of them are the results of ratifying certain United Nations Conventions. The Acts are:**
- **The Dangerous Drugs Act**
- **The Money Laundering Act**
- **The Drug Offences (Forfeiture of Proceeds) Act**
- **The Mutual Assistance (Criminal Matters) Act**
- **The Sharing of Forfeited Property Act**
- **The Drug Court (Treatment and Rehabilitation of Offenders) Act, and The Drug Court Regulations.**

# Dangerous Drugs Act

- The Dangerous Drugs Act addresses measures required under the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961.
- The remaining five Acts address measures required under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.
- A third Convention to which Jamaica is a party is the 1971 Convention on Psychotropic Substances.
- As this Convention seeks to control psychotropic chemical substances, including certain derivatives of cannabis sativa, rather than cannabis sativa itself.

# Drug Court

- The Drug Court Act The Drug Court (Treatment and Rehabilitation of Offenders) Act, consistent with the 1988 Convention, adopts a health-related, rather than a punitive approach to drug use.
- It provides for the establishment of a Drug Court aimed at facilitating treatment and rehabilitation of drug offenders.
- It comprises a Resident Magistrate and two Justices of the Peace, one of whom must be a woman, specially appointed by the Minister.
- Those brought before the Drug Court must be persons who appear to be dependent on the use of drugs but are of sound mind.

## Drug Court

- Where ganja is concerned, the Drug Court will hear cases involving smoking or otherwise using the substance, possession of utensils in connection with smoking, and possession of up to eight ounces of the matter.
- An approved treatment provider will provide the Court with an assessment of the person charged and pleaded guilty, in order to enable the Court to decide whether to order a prescribed treatment.
- On successful completion of the treatment he will be discharged and the offence not form part of his criminal record, unless convicted more than twice.
- Failure to comply or to complete the prescribed programme would result in the imposition of sentencing.

## US v Bauer case

- In US v Bauer and others, cited as 1996 WL 264776 (9th Cir. [Mont]), the United States Federal Court of Appeal had to consider a plea from Defendants charged with trafficking and possession of marijuana, that they had the right to a 'religious use' defence. They relied on the Religious Freedom Restoration Act, a U.S. statue which guaranteed freedom of religion. The District Court had held that the relevant marijuana law 'substantially burdened the free exercise of the Rastafarian religion', but decided that 'the Government had an overriding interest in regulating marijuana.'

## US v Bauer case

- The Court of Appeal reversed the District Court's decision. The court held that if the freedom of a person's exercise of religion is substantially burdened, the Government had to meet two tests: (a) a `compelling governmental interest; and (b) that the application of the law is `the least restrictive means of furthering that compelling governmental interest.' The Court found that the Government had not shown that a universal law against marijuana was the `least restrictive means' of preventing the distribution of marijuana.

## US v Bauer case

- Accordingly the defendants who were charged with simple possession would be re-tried, and they would have a defence if they could show that the use of marijuana was part of their religious practice as Rastafarians.
- The defendants charged with trafficking would have no such defence, since religious freedom was not involved.

# Impact

- In Jamaica the impact of the decriminalization of ganja has reduced a number of cases before the Court.
- Firstly the police no longer have the power to arrest or detain someone with less than an two ounces of ganja.
- There are no longer cases brought before our Parish (formerly called Resident Magistrate) Court for possession of less than an ounce of ganja.
- Police have over the years been able to determine and used their discretion on judging the quantity they see with an individual if it contravenes the law.

## Reduction in Cases in court

- In 2014 prior to the amended to the Act there were 8284 cases in all the courts in Jamaica for possession, dealing, cultivating, conveying, and attempting to export Ganja
- In 2015 when the Act was amended the numbers dropped By massive 75% to only 2285 cases islandwide.
- In 2016 we had 1733 cases
- In 2017 we had 2870 cases
- Up to June 2018 we had 1546 cases

## Effect on prosecution

- To prosecute someone for ganja the following has to be done
  - Prove actual or constructive possession in the accused
  - The chain of custody, locating to testing to court must be proved.
  - The government forensic lab must certify that item contains resin and it is ganja
- Without the need to test every small quantity of ganja the government forensic lab can concentrating on more important test live ballistic and forensic rape kits tests
- Prosecutor don't have to waste the courts time to prosecute cases with person who deny having a spliff.

## Effect on the Defence

- In effect the decriminalization of ganja has allowed attorneys to focus on more serious and other important offenses like larceny, fraud, rape murders etc.
- There are some cases of possession of ganja that are still before the Courts like possession of large quantities, dealing in ganja, and taking steps preparatory to export ganja.
- If someone is found with multiple strips of ganja or multiple packages of ganja with money are sometimes still charged with these offences

## Basis for a charge

- Usually the circumstances of each case determine the basis for the charge.
- A person who has 12 or more sticks (commonly called a spliff which is equivalent to a ganja cigarette) of ganja with money nearby, there is a rebuttable presumption that they are selling it and it is not for personal use.
- A person with sealed packages of ganja or ganja found concealed in objects, then the rebuttable presumption is that they are preparing to export it.

## Dealing in Ganja



## The Changes to the law

- We did not make it legal to possess or have ganja.
- We made prosecution exempt in certain circumstances ;-

  - When a registered medical practitioner certifies use for medical or therapeutic uses.
  - When person are suffering form cancer, or other terminal or serious chronic illness
  - For religious purposes for adherence to the Rastafarian Faith
  - To conduct research with accredited tertiary school or scientific research council
  - Possession of less than 5 plants

## Other considerations

- Persons who are not to be in possession of ganja
  - Under 18 years of age
  - Pregnant women
  - Persons of unsound mind
  - Other vulnerable groups

[Dangerous Drugs Amendment Act 2015 Fact Sheet.pdf - Ministry of Justice](#)  
[PDF | moj.gov.jm | sites | default | files](#)

However, the police may issue a ticket to a person in possession of 2 ounces or less of ganja. 1., similar to a traffic ticket, and the person has 30 days to .... The permit is issued by Jamaica's Ministry of Health, and a fee is.

[Men arrested in \\$10m ganja find charged | News | Jamaica Gleaner](#)  
[jamaica-gleaner.com | article | men-arre...](#)

Nov 20, 2017 · The police say three men who were arrested in connection with the seizure of more than \$10 million worth of ganja in St Catherine, on Thursday, have now been charged by the Narcotics Police.

[St Elizabeth farmers on ganja charges for court Wednesday | News | Jamaica Gleaner](#)  
[jamaica-gleaner.com | article | st-elizabe...](#)

Mar 12, 2018 · Two St Elizabeth farmers are to appear in the St Elizabeth Parish Court on Wednesday after being charged by the police following the seizure of approximately 100 pounds of ganja in Round Hill district ...



[Men allegedly held with \\$3M worth of ganja in Westmoreland charged | News | Jamaica Gleaner](#)  
[jamaica-gleaner.com | article | men-alie...](#)

May 10, 2018 · The police have charged the two Jamaicans and the Haitian man who were held last week in Westmoreland allegedly with ganja valued at over \$3 million. Charged with possession of ganja, dealing in ...



[Cop Charged With Selling Prisoners Ganja, Freed | RJR News - Jamaican News Online](#)  
[rjrnewsonline.com | local | cop-charged](#)

## Restriction on Smoking

- Jamaican has banned smoking in public areas for cigarettes and it extends to ganja, places like :
  - Public transportation
  - Bars, restaurants, clubs, cinemas
  - Government offices, all public buildings
  - Workplaces
- Tourist resorts may set up a designated smoking area for guests
- The Minister may make an event exempt like “Sumfest”

## The way forward

- What each government has to safeguard is the widespread abuse of it by adolescents who sometimes do not understand
- In Jamaica we have already seen the increased in usage among our youth.
- Several schools in Jamaica have had incidences with brownies, gummy bears, lollipops and candy laced with ganja being sold or distributed amount their population during lunch by other students and the effect it created on the users/consumers.

## Increase in Legitimate Industry

- There are now two companies operating in Jamaica offering medical marijuana.
- These companies require a “prescription” to access products from their stores.
- They sell several types of products containing various amounts THC and CBD`

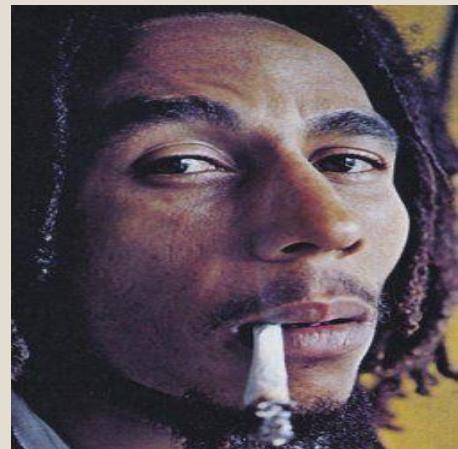
# Conclusion

- In conclusion we believe that the world's attitude to ganja use is changing as with the understanding of its medicinal and therapeutic benefits.
- The ability to extract the THC and make it not a product solely to get high has made the difference.
- Once the international community has accepted it, it will become an item of regular use like alcohol did after prohibition.



Excuse me while I light my spliff, good God I  
gotta take a lift  
  
(Bob Marley)

izquotes.com



THANK YOU  
FOR YOUR  
ATTENTION



*That's all Folks!*

