



Jamaica's Dangerous Drugs Amendment Act 2015

*by Mark Golding**

Jamaica is party to the three international drug conventions, which treat cannabis as a serious narcotic and subject it to a rigorous drug control regime. This approach was reflected in Jamaica's Dangerous Drugs Act, which treated the smoking, possession and other activities involving cannabis as criminal offences attracting heavy penalties (i.e. a fine or imprisonment, or both a fine and imprisonment) and a criminal record for the convicted user.

Despite this rigid legal framework, the use of cannabis for recreational, religious and medicinal purposes has long been widespread in Jamaica. As a result, considerable debate has surrounded the depenalization of cannabis in Jamaica, over several decades, with various parliamentary committees and national commissions recommending reform. However, no action was taken to implement those recommendations, amidst the prevailing prohibitionist geo-political environment which strongly discouraged policy flexibility.

In recent years the winds have changed internationally. Several countries, including Jamaica, have been reviewing their laws in relation to cannabis. In 2014, Jamaica's Cabinet approved a shift in policy which has culminated in the enactment of the Dangerous Drugs (Amendment) Act 2015.

The 2015 Act has depenalised the personal use of small quantities of cannabis (two ounces or less), which is no longer subject to arrest, detention or prosecution in court or attract a criminal record. Personal use is instead punishable by the police issuing a ticket, which may be paid online or at any tax collection outlet.

This reform has eliminated a long-standing source of conflict between the police and youths in communities across Jamaica. It also provides an opportunity for an individual with a substance abuse problem to get help, as the Act requires referrals of such persons by the Police to a rehabilitation programme under the auspices of the National Council on Drug Abuse, which has also implemented a public education campaign to discourage use by young persons and other vulnerable groups.

Depenalization is already having a beneficial effect on the justice system, as evidenced by data from the Corporate Area Resident Magistrates Court which show a significant reduction in the court caseload. In 2014, cannabis cases were approximately 25% of all criminal cases filed. Since depenalization of personal use in April 2015, cases involving



possession or smoking of cannabis coming into that court have been reduced by over 3,096 (90%), with the overall flow of criminal cases into the court being reduced by nearly 25% relative to 2014. The reform is enabling the court to allocate significantly more of its time to disposing of its remaining case load.

The constitutional rights of Jamaica's Rastafari community are also recognized for the first time by the 2015 Act, protecting their right to use cannabis for sacramental purposes in keeping with their faith. It enables the designation of Rastafari places of worship where cannabis may be used for sacramental purposes, and the designation of lands where cannabis may be cultivated for the sacramental use by Rastafarians. Provision is also made for the exemption of events promoted primarily for the celebration or observance of the Rastafarian faith, at which users of cannabis will not be in breach of the law. There have already been two such exempt events, which were successful and incident-free.

The reform has been extended to criminal records for past convictions for offences involving the personal use of cannabis. The Criminal Records (Rehabilitation of Offenders) (Amendment) Act provides a simple administrative mechanism for having criminal records expunged from past minor cannabis offences, freeing these persons from the stigma of a criminal record and enabling them to pursue their career prospects and travel opportunities. In the sixteen months since that measure was introduced in October 2014, some 3,954 Jamaicans have benefitted from it.

The reform has also created new economic opportunities through the emergence of a new medical cannabis industry, which will be regulated by a recently-established Cannabis Licensing Authority. A draft of the licensing regulations for the medical cannabis industry is being reviewed, with a target for the Authority to begin receiving applications in March. This will provide small cannabis farmers across Jamaica with the opportunity to make a lawful livelihood, and enable Jamaica to enhance its tourist offering as a centre of wellness for medical cannabis patients from around the world. Research on the healing properties of the plant has intensified at Jamaica's leading universities, facilitated by research permits granted under the Act.

It is generally agreed that these reforms have made Jamaica's law more consistent with the cultural, social and economic circumstances of our society, while duly observing our obligations under the international drug conventions. Nevertheless, those conventions, even interpreted flexibly, do not provide a framework for a fully coherent regulatory regime in relation to cannabis, especially as regards recreational use and supply. It is therefore hoped that the UNGASS in April 2016 will increase the momentum towards a review of the treaty



provisions, which are widely regarded as outdated and incoherent in their application to cannabis.

Indeed, it is a sad truth that the current treaty arrangements have contributed to wide-scale human rights abuses and institutional corruption at the hands of organized crime throughout Latin America and the Caribbean. Jamaica is proposing the appointment of an expert advisory group to undertake a review of the treaties. We will join with other likeminded countries in promoting an international regime which empowers countries to develop national policies towards cannabis which are coherent and in keeping with the best interests and aspirations of our citizens.

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