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**THE REFORM OF CANNABIS LAWS IN JAMAICA
MAURICE BAILEY, JAMAICA**

The Reform of Cannabis Laws in Jamaica

The Jamaican Context

- Cannabis Sativa (marijuana) is known as “ganja” in Jamaica.
- Ganja was brought to Jamaica in the mid 19th century by imported labourers from India
- Ganja use is widespread in Jamaica for recreational, religious and medicinal purposes.

Brief History of Ganja Laws In Jamaica

- Hague Convention 1912-contracting parties make possession of opium, morphine and cocaine a criminal offence.
- Cannabis was not included in Convention
- Jamaican Legislators passed Opium Law 1913 and included cannabis “ganja”
- Issues of race and class prejudice

The Dangerous Drugs Act 1948

- Prohibition of ganja now contained in the Dangerous Drugs Act. Passed in 1948 and amended several times since then
- Absolute prohibition of any dealing with the ganja plant
- Penalties were severe: between 1941 and 1972 a sentence of imprisonment of up to a maximum of 18 months was mandatory on conviction for possession

- Section 2 defines “ganja” as follows;
"ganja" includes all parts of the plant known as cannabis sativa from which the resin has not been extracted and includes any resin obtained from that plant, but does not include medicinal preparations made from that plant
- Part IIIA (Sections 7A-7D) contain specific provisions for Ganja

- Section 7A prohibits import or export or taking any steps preparatory to export.
- Section 7B prohibits cultivation, gathering, producing, selling or otherwise dealing in ganja; using premises for cultivation or storage; and using any conveyance

- Section 7C prohibits possession of any ganja.
- Section 7D penalizes those who smoke ganja and those who occupy or manage any premises used for smoking. the possession of pipes or utensils for use in connection with smoking is illegal.
- Penalties range from a fine of \$100 per ounce (56.7grams) for possession for personal use to 35 years imprisonment and an unlimited fine for trafficking.

- Persons convicted of possession for personal use are usually arrested, sometimes not given bail by the police and kept in police cells until brought before a Magistrate and fined.
- Consequences:
 - entanglement with the police and criminal justice system
 - Police record of criminal conviction

Drug Court

- Increasingly addiction to substances particularly ganja seen not only a crime problem but also as public health issue
- Drug Court established in 2001 by the Drug Court (Treatment and Rehabilitation of Offenders) Act,
- Court supervised rehabilitation
- Eligible person must not have been caught with more than 8 ounces (227 grams)
- No criminal record on successful completion of rehabilitation program

The Parliamentary Debates

- In 1977 a Joint Select Committee of Parliament recommended the decriminalization of possession of ganja for personal use in small quantities (2 ozs), and for medical use under prescription.

- 2001 the National Commission on Ganja, set up to examine the submitted its report, also recommending decriminalization for possession of small quantities and for use as a sacrament for religious purposes by Rastafarians
- 2003 Joint Select Committee of Parliament endorsed the Report of the National Commission on Ganja

Recommendations of the National Ganja Commission

- the relevant laws be amended so that ganja be decriminalized for the private use of small quantities by adults;
- the decriminalization for personal use should exclude smoking by juveniles or by anyone in premises accessible to the public;
- ganja should be decriminalized for use as a sacrament for religious purposes;
- a sustained, all media, all schools education programme aimed at demand reduction, accompany the process of decriminalization and that its target should be, in the main, young people; and
- a Cannabis Research Agency be established, in collaboration with other countries, to coordinate research into all aspects of ganja.

The New Policy

- Allow the possession and use of ganja for therapeutic purposes as prescribed by a medical practitioner, and for purposes of approved scientific research conducted by accredited tertiary institutions or otherwise approved by the Scientific Research Council

Proposed Amendments to the DDA

- to make possession of two (2) ounces (0.057kg) or less of marijuana a non-arrestable, ticketable infraction that does not result in a criminal record;
- to align the treatment of the smoking of marijuana with Public Health regulations that prohibit smoking in public spaces; and
- to allow for the possession and use of ganja for religious purposes; and
- to allow for the possession and use of ganja for therapeutic purposes as prescribed by a medical practitioner, and for purposes of approved scientific research conducted by accredited tertiary institutions or otherwise approved by the Scientific Research Council.

The Criminal Records (Rehabilitation of Offenders) Act 1988

- Amended in October 2014 to accomplish the following
 - Automatic expungement of the criminal record for offences of smoking ganja, of ganja and possession of smoking utensils and possession of ganja where the fine does not exceed \$1000 *
 - Effect is retroactive

Factors Driving the Reforms

- Human Rights
 - Disproportionate negative consequences for persons prosecuted for possession of small quantities for personal use
 - Recognition of use as sacrament by Rastafarians

- Effect on the Justice System: Large number of cases adds to backlog in the Courts
- Smoking is a health concern which should not be treated as a criminal matter
 - NCDA supports Drug Court program and public education particularly aimed at young persons

- Medical uses
 - Pharmaceuticals
 - Therapeutic uses
- Economic potential
- Changing international attitude