



By Neil Carrier



## A PERVERSE TRAJECTORY AMID GLOBAL POLICY FLUX

In the mid-1980s, historian Lee Cassanelli wrote a seminal chapter on khat in northeast Africa for a book on the cultural dimensions of commodities. [\[1\]](#) This chapter analysed the regional economy of the substance and the politics surrounding its production, trade and consumption at a time when Somalia had recently banned it. In this chapter he referred to khat as a *quasilegal* substance, one whose legality is distinctly ambiguous. In some jurisdictions it was illegal (Somalia, Tanzania), while in others it remained legal (Kenya, Ethiopia), although even in the latter contexts there remained great suspicion over its physical and social effects.

This article looks at khat's quasilegality, showing how it has become ever more ambiguous over the intervening years, as countries around the world have prohibited the substance, while in its growing regions – and certainly in Kenya – khat remains solidly legal. All this in an age where global drug policy is in flux, and substances like cannabis – once seen as unambiguously *illegal* – are themselves becoming more legally ambiguous.

In Yemen, Ethiopia and Madagascar, often just the leaves and tender stem tips are chewed, whereas in Kenya small leaves and the bark of stems are also chewed. The stems are a mixture of green and purple hues depending on the variety

Before turning to its varying legal status, it is worth introducing khat in some detail. It consists of

the stimulant stems and leaves of the shrub *Catha edulis*, which is found from the Middle East down to the Eastern Cape, and is now cultivated intensively in Yemen, Ethiopia, Kenya, Uganda and Northern Madagascar, and consumed in that region, as well as globally through the region's diasporas. In Kenya the substance is more commonly known as *miraa*.

#### THE BETTER THE KHAT, THE SWEETER THE TASTE

*Catha edulis* favours an altitude between 1,500 and 2,450 metres, and can grow over 25 metres tall, although the farmed variety is kept much shorter through constant pruning. In much of the production zone, high esteem is given to old trees; this is certainly true in Kenya, where old trees are reckoned to produce the finest khat. The actual harvested commodity varies in what is considered edible: In Yemen, Ethiopia and Madagascar, often just the leaves and tender stem tips are chewed, whereas in Kenya small leaves and the bark of stems are also chewed. The stems are a mixture of green and purple hues depending on the variety. They can taste bitter, although the better the khat, the sweeter the taste.

Chemical analysis of khat has revealed several alkaloids, the most potent being *cathinone*, which acts in a similar manner to amphetamine. Generally, chewing khat renders one alert and acts as a euphoric, making it popular in recreational and work contexts. Khat has also been associated with religious expression, for example devotional Muslim ceremonies in Ethiopia. A crucial factor is its perishability: *Cathinone* rapidly degrades into a weaker alkaloid post-harvest, and once khat dries it loses potency and value (though there is a growing international trade in dried khat). Wherever it is used, therefore, consumers usually want it as fresh as possible.

**WATCH:** Miraa / Khat: A Historical Perspective. By John Githongo

#### COFFEE, COCAINE OR ME? SEX ENTERS THE DEBATE

Chewing khat is associated with some adverse health consequences, though the scale of these is disputed and the evidence ambiguous. Still, supporters and opponents of the substance tend to take extreme positions — that it is relatively innocuous like coffee, or much more potentially harmful, like cocaine. The most serious health concerns include a link between heavy consumption and cardiac problems, especially when chronic consumption is combined with other cardiovascular risk factors, and an association with liver damage is supported by a small number of cases in the UK. Khat is also commonly linked to sexuality, negatively and positively: It is described by consumers and in the literature as both an aphrodisiac and a cause of male impotence. There is a strong association of khat chewing with dental problems. These are likely to be most prevalent where consumers use chewing gum, sweets or sugary drinks to mitigate the often bitter taste of cheap khat varieties.

Khat is also said to be the cause of a number of social harms: It is linked to family breakups, as chewers — generally but by no means exclusively male — reportedly spend too much time away from home; and it is often cited as a cause of unemployment, as khat is associated with idleness. Income diversion is also seen as a major problem in countries such as Djibouti where a large proportion of household income is spent on khat. What evidence there is in respect to social harms suggests demonising khat as their source is simplistic, falling into the trap of 'pharmacological determinism,' where all agency is given to the substance rather than the wider social context. One should therefore be cautious when attributing causality to khat — and indeed all such substances — while ignoring wider factors.

Khat is also commonly linked to sexuality, negatively and positively: It is described by

consumers and in the literature as both an aphrodisiac and a cause of male impotence

Whether khat is a relatively harmless mild stimulant or an addictive curse on society is fervently debated, yet it is unrealistic to expect any conclusive argument either way, as with most such substances, however mild – ambiguity reigns. There are ‘problem users’ who chew at the expense of food (khat – like other stimulants – reduces appetite) and oversleep, making it hard for them to hold down a job; however, evidence suggests that many chew more moderately and with relatively few ill effects. More positively, some point to its link to cultural identity and its role in bringing people together in peaceful gatherings where amity is generated and advice proffered. Going even further, some have described khat as playing a contributory role in uniting people in the context of Somaliland’s post-war path to peace. This contrasts strongly with khat’s presentation to the outside world as a drug associated with war in Somalia, where some suggested it was a significant factor in the conflict in the early 1990s.

It is important to describe these debates about khat and its potential for medical or social harm or benefits, as the ambiguities in these areas matter for how states treat it under the law. As Cassanelli emphasised, these ambiguities mean that policy makers have been able to argue both for banning it and not banning it, depending on their instincts or interests at any one time, generating an extremely varied international legal situation: although khat is not under international control, it has come to be prohibited in numerous countries throughout the world, while remaining legal in others.

#### MERUS GOT RHYTHM, SOMALIS DON’T: WHO SAID RACISM MAKES SENSE?

The colonial government of Kenya attempted to prohibit it through what was known as the ‘khat ordinance,’ a piece of legislation that owed much to the efforts of colonial official Gerald Reece, a DC and later officer-in-charge of northern Kenya who saw khat as an alien introduction that was polluting the pastoralists of that region. This law was crippled from the start by khat’s ambiguities. Debates raged among colonial officers about its addictiveness or otherwise (and which substance to best compare it to – opium, gin or tobacco), while a racialised view emerged of khat harming pastoralists such as the Somali, while being innocuous for agriculturalists such as the Meru of central Kenya who were and still are the main cultivators of the crop in Kenya. These ambiguities led to fuzzy law: Trade in the substance was prohibited in the north while Meru cultivation and consumption was protected as a cultural right. These colonial attempts failed to curb the substance, and awareness of its value as a commodity eventually trumped concerns over use, although traces of the ordinance remained in place into the postcolonial era. Bans imposed in this era, including in Somalia (which banned it in the 1980s), also failed through lack of legitimacy, ever-increasing demand, and inability to police multiplying smuggling routes. It is these varied attempts to prohibit khat alongside the ambivalence with which many view it that led Cassanelli to term khat quasilegal back in 1986.

#### KHAT GOES GLOBAL, MINNEAPOLIS CAUGHT UNPREPARED

Since Cassanelli’s writing on khat, it has become yet more ambiguous a commodity. Khat went global in the 1990s and 2000s with the spread of the Somali diaspora and consequent demand for the crop in places like Minneapolis, encountering more illegality as several Western countries had banned it not so much because of its alleged harm, but because its individual compounds *cathinone* and *cathine* were scheduled internationally in the late 1980s. This scheduling applied only to the isolated compounds, and was not intended to subject khat itself to international control. Nevertheless, scheduling led first to Sweden and Norway prohibiting the substance itself; the USA, Canada and a number of European countries soon followed their lead, also banning the substance,

perhaps imagining these first bans were the result of judicious policy-making, rather than an overzealous interpretation of international obligations.

Some point to khat's link to cultural identity and its role in bringing people together in peaceful gatherings. Going even further, some have described it as playing a contributory role in uniting people in the context of Somaliland's post-war path to peace.

However, khat's exact legal status and penalties for those caught with it in these territories is far from clear, especially in the US. There, defence lawyers often use the argument that fair warning of khat's illegality has not been provided as khat itself is not listed as a scheduled substance under federal law, or that defendants are unaware that khat contains cathinone and therefore do not understand its status. Further confusion is caused by differences between states. For example, the District of Columbia had never added cathinone to its scheduled substance list. Consequently, those charged under state law for khat possession could only be faced with the minor offence relating to a Schedule IV substance (cathine). However, if the quantity of khat was very large and the federal drug authorities were asked to handle the case, the charge would be upgraded.

The UK became the most recent country to ban the substance, in 2014, after a long review process in which the chief body advising the government on drug policy – the Advisory Council on the Misuse of Drugs – recommended it not be banned, but the government, under pressure from UK-based Somali anti-khat activists and other European countries whose illegal khat imports were routed through the UK, banned it anyway. Khat became a 'Class C' substance, a relatively low classification, but one that stopped the legal import of over 56 tonnes of khat that were coming in from Kenya and Ethiopia. There have since been seizures of the substance, although how actively policed it is remains in doubt as the substance is unlikely to be high up the list of priorities for overstretched police forces. Obtaining khat – especially dried khat, which is easier to smuggle – is still reckoned to be reasonably straightforward, as some of my informants have confirmed.

A racialised view emerged of khat harming pastoralists such as the Somali, while being innocuous for agriculturalists such as the Meru of central Kenya who were and still are the main cultivators of the crop in Kenya.

Thus, while its legal status still varies greatly, if anything khat is moving towards the more illegal side of the spectrum, certainly in the West. Yet in most producer countries back in Africa it remains legal, although often treated as illegal. For example, its production has risen in recent decades in Uganda and Madagascar, where it is technically legal, yet there are continual rumours that the substance is banned or about to be banned such is its conflation with other drugs, and various local by-laws add further ambiguity in Uganda, as researcher Susan Beckerleg showed some years ago. Indeed, as Beckerleg suggests for Uganda, there is often much conflation of khat and other drugs, including cannabis, that further muddy the waters concerning the legality of the substance.

#### KENYA FACES UP TO POLITICAL REALITY

However, in one jurisdiction at least the situation appears to be clarifying: Kenya. The crop was long subject to ambiguity in Kenya as the government kept aloof from either encouraging or discouraging its production fearing international disapproval, and in my early research on the substance in the early 2000s, there was sufficient ambiguity about the substance for security officers to once threaten me with arrest in the hope of a bribe when they spotted me carrying some; they felt the substance sufficiently 'quasilegal' that a European would believe them that it was in fact illegal.

The UK became the most recent country to ban the substance, in 2014, after a long review process in which the Advisory Council on the Misuse of Drugs recommended it not be banned, but the government, under pressure from UK-based Somali anti-khat activists, banned it anyway

However, the recent ban in the UK has ironically made the substance if not 'respectable,' then at least more unambiguously legal. This is because the Kenyan state came out in support of the crop under pressure from Meru growers and traders, now a powerful voting bloc since the introduction of devolution in 2013. Khat has been designated an official cash crop - something the Meru have campaigned for for decades - while a task force has been established to see how its farmers can further benefit from the crop and be protected from the negative effects of the ban in the UK. Thus, paradoxically, the UK ban on khat has meant that in Kenyan khat is less quasilegal than it used to be.

However, all these changes should be seen in the wider context of changing global drug policy. Cannabis in particular is interesting in this regard. Recently, it has been legalised in various states in the US, while many other countries have decriminalised its possession. Of course, cannabis in the Netherlands has long been an example of quasilegality, as loopholes were exploited to allow its consumption in coffee shops. These debates about cannabis law are also becoming more potent in African countries, all the more so as cannabis has long been an important crop in many rural parts of the continent. In Kenya and South Africa, there are growing calls for legalisation.

We live in interesting times where the repressive drug policies of the past are being increasingly questioned, and substances like cannabis are apparently travelling a path from illegality through quasilegality to legality. Meanwhile, khat, if anything, appears to be travelling in the opposite direction

Thus, we live in interesting times where the repressive drug policies of the past are being increasingly questioned, and substances like cannabis are apparently travelling a path from illegality through quasilegality to legality. Meanwhile, khat, if anything, appears to be travelling in the opposite direction, becoming more unambiguously *illegal* around the world. Aside, that is, from countries like Kenya and Ethiopia where it remains such an important crop and commodity.

[1] Appadurai's edited volume, *The social life of things* (Cambridge University Press: 1986).

---

*Published by the good folks at [The Elephant](#).*

*The Elephant is a platform for engaging citizens to reflect, re-member and re-envision their society by interrogating the past, the present, to fashion a future.*

*Follow us on [Twitter](#).*