Free the Weed: A Short History of Marijuana

By Neil Carrier and Gernot Klantschnig

For generations now in most of the world, cannabis has been a prohibited substance, one often vilified as a noxious bringer of addiction. Yet change is coming fast. Several states have already amended statute books to soften laws relating to cannabis (whether through allowing its medicinal use, decriminalising its possession and use, or full-blown legalisation), and many others are considering amendments. Age-old consensus on the substance has cracked, although many remain deeply opposed to any push to “free the weed”.

In Kenya, debate has grown strong too, driven by, among others, the late Ken Okoth, the MP for Kibra, who pushed for a bill legalising and regulating the substance before his sad passing. This article traces the history of this controversial substance and policy towards it, with a particular focus on Africa, and looks at the likely impact – good and bad – as a botanical outlaw is increasingly rehabilitated.

**Beginnings**

Cannabis, also known as marijuana, has long been used by humans as medicine, food (its seeds are highly nutritious, as is the oil derived from them), and importantly as fibre. Long before most Europeans were even aware of the psychoactive properties of this plant, cannabis was the major source of fibre used to make the rope and rigging that powered navies in the era of European imperial expansion.
Rather than bringing to mind this marine history, however, for most people around the world, the name cannabis conjures up images of a haze of psychoactive smoke emanating from the mouths of such legendary “stoners” as Bob Marley, Bob Dylan and Fela Kuti. It also conjures up the characteristic leaves of the cannabis plant – odd-numbered combinations of serrated spears that have become symbolic not just of cannabis culture but a much wider culture of defiance.

Even the taxonomy of the plant is controversial, as researcher Chris Duvall (author of a new book, *The African Roots of Marijuana*) has shown. An orthodox theory holds that there is one species – *Cannabis sativa* – that has been cultivated and used in different ways: for fibre, for food and for its psychoactivity. Such a theory has suggested a racialised view of cannabis usage – that industrious Europeans built great seafaring empires out of hemp, while other people used it to get high.

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However, a two-species theory – that there is *Cannabis sativa* more suited to producing fibre, and *Cannabis indica* more capable of psychoactivity – gives a more accurate botanical view of why cannabis is valued in different regions for different purposes: *sativa* and *indica* varieties simply grew in different climates, the latter more at home in warmer regions.

Whatever the taxonomic truth, cannabis originated in Eurasia, and palaeobotanical evidence suggests that people were already making use of cannabis as far as East Asia 12,000 years ago, though in what ways is now impossible to discern. It seems likely that cannabis was being farmed in East Asia 6,000 years ago, while Koreans appear to have been making fabric from it around 5,000 years ago.

But people have also long been aware of the psychoactive qualities of cannabis, and a burial site 2,700 years old in northwestern China has preserved a large cache of potent cannabis, possibly for ceremonial or shamanic use. In South Asia, there is also a long history of cannabis usage for fabric and for intoxication, a distinction emerging in Sanskrit between *sana* and *bhanga*, the former a source of plant fibre, the latter a source of intoxication and medicine. Bhang, of course, is now a widely dispersed term (in East Africa too) used for intoxicating cannabis.

This plant and its usage then took many different routes around the world. These routes owed much to a number of maritime and overland trade networks that have transported cannabis and its cultures of use. Around 5,000 years ago, cannabis was projected westwards as far as Egypt through overland trade linking India to Mesopotamia and beyond, while Indian Ocean trade networks brought cannabis to East Africa’s coastline, where it has had a presence for at least a thousand years. From there it spread inland and into many different African cultures of consumption, the use of the term bhang in much of the region suggestive of its Indian Ocean network origins, although many local terms suggest possible multiple routes of entry.

The Atlantic slave trade was another vector of its spread; slaves departing from the Angolan coast sometimes carrying cannabis seeds, which led to its spread in Brazil. Another vector in its spread has been war, its popularity in West Africa owing much to the return of soldiers who had been fighting in Asia during World War II and were exposed to its consumption there. In Europe, the use of cannabis for intoxication purposes was initially an elite pursuit of Bohemians in the nineteenth
century, the likes of Baudelaire popularising experimentation with the drug in an age of intense European intellectual interest in “exotic” mind-altering substances that also included opium.

While cannabis has many different cultures of consumption, there has been something of a globalisation of its appeal over the twentieth century, especially through its link to various types of music. Long associated with jazz in the US, cannabis’ popularity was also boosted by musicians such as Bob Marley and Fela Kuti. For Fela Kuti, cannabis had much symbolism as a symptom of defiance against authority, and this has long been a core part of the herb’s appeal for many consumers within various countercultures.

Much of this aura of defiant cool derives from the fact that for over a century cannabis has itself been an outlaw, as both internationally and nationally many jurisdictions have prohibited the production, trade and use of this controversial plant. Yet these prohibitions are now under threat as never before, as even countries that have long fought and promoted the “war on drugs”, such as the United States, are experimenting with various forms of decriminalisation and legalisation, while other countries still try and hold firm against calls for legislative change.

Regulating the herb

For as long as mind-altering substances have been used by humans, attempts to regulate their use have likely been used. Whether alcohol, opium or cannabis, the psychoactive qualities of such substances mean that they are usually viewed with great ambivalence – substances that can ease worries and bring pleasure, yet also bring harm and danger. Such ambivalence has spurred efforts to restrict access to those seen as able to use them responsibly, or to forbid their use completely.

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The widespread claim that historically East African societies restricted access to alcoholic beverages and khat to elders reflects concerns over youthful drinking and chewing. It also suggests that similar types of restrictions and regulations might have been in place for cannabis in East Africa and elsewhere.

However, the formal prohibition of cannabis is mostly a twentieth-century story, albeit with a number of precursors, including the Merina king Andrianampoinimerina prohibiting it in the late eighteenth century in Madagascar on the grounds that it made his subjects “half-witted”. Its prohibition story links to that of opium, and the growing international calls for its regulation and prohibition that grew strong after the nineteenth-century Opium Wars where the British compelled China, through force, to accept imports of opium from India in the interests of their Imperial economy.

Unease with the free trade in opiates led to the International Opium Commission conference in 1909 in Shanghai, and later the International Opium Convention that called for controls and restrictions of the trade in opiates and cocaine was signed in 1912. This marked the start of the internationalisation of drug control. Cannabis was not added to these conventions until 1925 when, at the request of Egypt, cannabis was added to the conventions and its exports restricted. Subsequent conventions (including the 1961 Single Convention on Narcotic Drugs) further globalised attempts to suppress a growing range of psychoactive substances, including cannabis.
This international story of drug conventions and cannabis prohibition played out differently in various countries, the US history of marijuana prohibition and its link to characters such as Harry Anslinger of the Federal Bureau of Narcotics being the most familiar. Historians such as Isaac Campos and Jim Mills have also analysed the equally fascinating history of cannabis policy in Mexico, India and the UK.

In African countries, most state laws and policies proscribing the use, trade and production of cannabis, opiates and cocaine first emerged during the colonial period, particularly in the 1920s, though in some colonial states, these laws were put on the statute books even earlier. The major mind-altering substances of interest to African and colonial officials before then had been alcoholic drinks, as well as kola nuts and khat. The lucrative kola trade had been regulated and taxed since the end of the eighteenth century by states administering foreign trade, such as the Asante Kingdom in today’s Ghana. Alcohol use had been prohibited in many of Africa’s Muslim societies for long and became the subject of intense international debates and domestic control at the end of the nineteenth century. In particular, the trade and production of distilled spirits became the target of state regulation at that time.

African control efforts on cannabis, opiates and cocaine generally commenced only after the national and international debates on distilled spirits had become quiet. In 1927 the first Nigerian Dangerous Drugs Ordinance restricted the use and trade of cannabis, opium and coca products to medical and scientific purposes and put them under the supervisory powers of the chief medical officer of the colony. The law made the unlicensed use and trade in these drugs a crime.

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In Kenya there is an earlier history. An Opium Regulations Ordinance was put in place in 1902. This was intended to restrict the import and production of opiates to permit holders, and sales were restricted to the discretion of medical officers. “Opium” included a wider range of substances, including “bhang”, the main term used in East Africa then and now for cannabis. This ordinance had little teeth, and pressure grew from colonial officers in western Kenya (where much cannabis was grown and consumed) for possession to be outlawed too and harsher penalties introduced for those producing or trading such substances without permits. This pressure in part led to the Abuse of Opiate Ordinance in 1913 that attempted to eradicate illicit consumption of not just opium, but a range of opiates, as well as cocaine and cannabis.

The Kenya colony and its opiate ordinances apart, drug ordinances did not usually grow out of colonial anxieties about these drugs’ threats to health or a paternalistic concern to “protect Africans” from foreign substances, as had been the case with distilled spirits. In South Africa, debates on the use and control of opium were also closely tied to the growing gold mining industry in the Transvaal as it was feared to decrease the productivity of South Africa’s workforce. In 1923 the South African government even urged the League of Nations to classify cannabis as a dangerous substance requiring international control.

In effect, most African drug laws were based on colonial blueprints, such as the Hong Kong Drug Ordinance, which was circulated among British colonial governments in the 1920s. These laws often preceded local concern with cannabis, opiates and cocaine and served more to satisfy the legal obligations of governments under new international laws, such as the 1925 and 1931 Geneva Opium
Conventions. In the course of the first half of the twentieth century, most African colonies were therefore signed up to a range of international treaties on drug control, without there being much of a local concern or debate about the laws transposed into domestic legal codes, except for the case of Kenya and South Africa.

This situation changed somewhat by the late 1950s and early 1960s, when most African countries gained political independence. This period coincided with the wider use and growing public concern about cannabis and saw the first effective government policies on cannabis. In West Africa, concern was driven by medical professionals who encountered cannabis-smoking ex-soldiers among their patients. Doctors, such as Thomas Adeoye Lambo, Africa’s first Western-trained psychiatrist, started exploring Africa’s new drug and addiction problems in their research and public speeches.

Cannabis addiction also became a key discussion point at the newly founded Pan-African Psychiatric Congress and its African Journal on Psychiatry (Lambo 1965; Lewis 1975). This new medical and also media interest in cannabis led to important policy changes in some countries, such as Ghana and Nigeria. In the latter, a coup d’état brought a group of reform-minded soldiers to power who aimed to address cannabis use with the draconian Indian Hemp Decree of 1966 shortly before the country slid into a civil war.

Cannabis thus became firmly embedded in the statute books of most African nations. However, this legal uniformity belied continuing ambivalence towards the substance. Legality or illegality, of course, rarely perfectly matches societal attitudes, and many continued to view the substance positively in various ways, including as a traditional medicine, and as a recreational substance associated with popular figures such as Bob Marley and Fela Kuti. Furthermore, its illegality only further increased its reputation as a symbol of defiance against authority. For many, cannabis law has little legitimacy – or power, given the lack of state capacity to police it effectively – and it has grown to be a vital part of the rural and urban economy in much of Africa. On the other hand, many, for social, cultural or religious reasons, have bought into the idea of cannabis as socially and medically harmful and something that should be restricted.

**African debates**

In such a cultural climate, legalisation or decriminalisation campaigns were unlikely to take root beyond the margins. Indeed, in an earlier book we suggested that debate on drug policy had yet to take off in most African countries (2012). Yet things appear to be changing, as the impact of policy change even in parts of the USA – long the leader in the “War on Drugs” – has global repercussions.

On a more regional level, the activities of organisations like the West African Drugs Commission have also expanded the narrative away from a simple focus on repressive supply-side policy in relation to drugs of all types. In East Africa too there are moves towards alternative “harm reduction” policies, especially in regard to heroin use in cities like Dar es Salaam and Mombasa, and more recently also in Nairobi. In Africa, as elsewhere, the international consensus around drug policy is fracturing, especially in regard to cannabis.

Since 2011 in Cape Town an annual cannabis march has been held that has increased markedly in popularity, symbolising the seismic changes occurring in cannabis legislation in South Africa, perhaps the African country with the strongest drug counter-culture. As with parts of the USA, permitting medical use of cannabis appears the first step in this process, and South Africa is developing provision in this regard. In addition to this, a recent court case in the Western Cape has raised hopes further that legalisation is around the corner. Several activists (including those from the “Dagga Party”, dagga being the common South African term for cannabis) brought a case “seeking a declaration that the legislative provision against the use of cannabis and the possession,
purchase and cultivation of cannabis for personal or communal consumption is invalid”.

In March 2017, the court ruled that there should be a stay of prosecutions for possession of small quantities of cannabis and use of cannabis in private settings, and gave the government 24 months to amend the law in this regard. On 18 September 2018, South Africa’s Constitutional Court confirmed this judgement and thus made the growing and use of cannabis for private use legal with immediate effect, although the exact implementation of the decision is yet unclear. While there are no doubt many more hurdles to overcome for the campaigners (most prominent of whom are a white couple known as the Dagga Couple), many are already eyeing a potential legal market for cannabis in South Africa, leading some to fear the predation of corporate interests.

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Elsewhere too, there are increasing signs of shifting policy. Linked to the change in South Africa, Lesotho, a major supplier of illegal cannabis to the South African market, has recently given a licence to a South African firm to cultivate medical cannabis. Malawi, another major cultivation country of illegal cannabis, is also moving towards a legal hemp industry. While hemp consists of non-psychoactive varieties of the cannabis plant, even this move required overcoming resistance in Malawi’s National Assembly to an initiative based around so infamous a plant. Ghana, ranked the country with the highest rates of cannabis consumption in Africa, is also seeing rising debate on cannabis policy, and even calls for a cannabis industry to be established to take advantage of legal opportunities around the world. Debate seems more muted in Nigeria, a country with some of Africa’s harshest drug laws, although the debate is gaining ground there too.

In East Africa, debate is also increasingly conspicuous in news reports and in the wider media, especially in Kenya. There, calls for full legalisation have recently been made, including by Ken Okoth, and by political analyst Gwada Ogot, who took a petition for legalisation to the Kenyan senate. Okoth argued for Kenya to benefit economically from an export market for cannabis, suggesting that the “government should stop wasting money on sugarcane farming and legalise marijuana instead”. Ogot focused more strongly on the medicinal benefits of cannabis, and sought in his petition to have cannabis removed from the list of scheduled substances, and for the establishment of a regulatory body to oversee a legal market. He argued that: “The plant is God’s gift to mankind just as the many minerals he has put in store for Kenyans. The banning was purely for commercial interests with pharmaceutical firms seeking to control the medical industry during the first and second world wars.”

This petition was debated in the Senate, Kenya’s upper house of Parliament, in February 2017, where it garnered much interest in the media. While the debate in the Kenyan Senate was somewhat inconclusive, and decriminalisation is unlikely, at least in the near future, that such a petition was heard at all marks a shift. Debating the issue confers at least some legitimacy on a topic that many Kenyans recently would either have found shocking or comical.

What all these debates and apparent moves to different policy suggest is that the issue is a live one in African countries. However, it seems likely that the debate will gain more traction in some countries than in others and we should be cautious in generalising across such a diverse continent. In many countries there are so many other more pressing issues than cannabis, that it is unlikely to garner sufficient attention. Indeed, pushing through legislative change will require much energy and resources. For this reason, some might see legalisation as fine for rich countries like the USA with
greater capacity to cope with the consequences, but hardly sensible in countries with so many other challenges.

As we have seen, economic reasoning appears to be underlying some of the push to liberalised policy, with some eyeing lucrative futures based around a cannabis industry. Economic interests have, of course, long been important in policy debates around psychoactive substances, with governments often balancing tax and other forms of revenue against medical and social harms with substances like tobacco and alcohol. And historians and anthropologists alike have emphasised the importance of analysing drugs as commodities. This has certainly been true in the case of alcohol, but also in the case of khat. Like cannabis, khat’s harm potential is ambiguous, allowing governments to justify both restricting it and developing a market for it. In the case of khat, producer countries like Ethiopia and Kenya have long resisted making the substance illegal, even if governments have been suspicious of the substance.

In relation to cannabis, we can see how in countries like Lesotho and Malawi, where the cannabis industry forms a major proportion of the national economy, the temptation to make the crop legitimate and boost national coffers might be attractive. A country like Kenya, on the other hand, cultivates cannabis, but not to the same scale. It forms only a minor part of the economy, and is unlikely to garner a strong export market anyway.

It seems possible that where economic logic is not an especially pressing factor, the political will to change cannabis policy is less likely to materialise. In countries like Kenya, concern with the harmful effects of cannabis, as well as the cultural conservatism of many in government and in the general population, will form a substantial roadblock in the way of reform. In fact, Kenya has recently banned shisha smoking on health grounds, suggesting that in terms of policy the predominant logic is still one of restricting rather than liberalising. Yet change in relation to cannabis law is coming thick and fast, and given growing support amongst the political class, change cannot be ruled out in countries like Kenya. Indeed, the sad passing of Okoth has encouraged others to follow his example in calling for such change.

That change to cannabis law in Kenya is now being considered might prove a strong legacy to the memory of Okoth. Stronger yet would be taking seriously too his calls for a properly regulated market, one that would offer protections to the vulnerable, and ideally protect against predation from corporate interests.

Cannabis has provided many smallholder farmers with livelihoods – albeit illicit ones – throughout much of Africa and elsewhere in the world. As Chris Duvall argues, African cannabis farmers have done much innovation in its cultivation even under the cover of illegality. It would be a shame if legality means that powerful interests move in to seize the fruits of this innovation.

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