



Working to Reform Marijuana Laws

Public Comments of the National Organization for the Reform of Marijuana Laws (NORML) In Response to the Recommendations of the Jamaican National Commission on Ganja

November 3, 2003

Since 1970, The National Organization for the Reform of Marijuana Laws (NORML) has served as a voice for marijuana consumers in the ongoing national and international debates over marijuana policy. The organization, along with its sister organization, the NORML Foundation, seeks through public education, lobbying and public advocacy to: overcome the unfair negative stereotype of marijuana smokers, offer alternatives to criminal prohibition, and sway public and political opinion sufficiently so that the responsible use of cannabis by adults is no longer subject to penalty.

NORML read with great interest the findings of the 2001 Report of the National Commission on Ganja¹, and applauds the Commission's diligence and the expert guidance it lends to the matter of decriminalizing marijuana in Jamaica. Before responding specifically to the Commission's recommendations, NORML would first like to provide some background on the topic of marijuana decriminalization, and its adoption as a public policy throughout the world.

A HISTORICAL OVERVIEW OF MARIJUANA DECRIMINALIZATION

Over the past four decades, the issue of marijuana policy has been thoroughly investigated and debated. Federally appointed commissions in the United States², Great Britain³, Canada⁴, Australia⁵, New Zealand⁶, Switzerland⁷ and elsewhere have conducted inquiries on the subject, and universally these commissions have recommended amending federal law so that the possession and personal use of marijuana by adults is no longer an offense punishable by arrest or incarceration. This policy, known as "decriminalization," removes the drug user (and, in most cases, any non-profit distributor) from the criminal justice system, while simultaneously maintaining criminal penalties against those who sell or traffic large quantities of illicit drugs.

Nations throughout the globe have enacted various forms of marijuana decriminalization, and in some cases, legalization. For example, adults no longer face criminal penalties for possessing and using marijuana in countries as such Spain, Italy, Portugal, Belgium, Germany, Croatia, Switzerland, and the

¹ Jamaican National Commission on Ganja. 2001. *A Report of the National Commission on Ganja*. Kingston, Jamaica.

² First Report of the National Commission on Marihuana and Drug Abuse. 1972. *Marihuana: A Signal of Misunderstanding*. Washington, DC: U.S. Government Printing Office.

³ United Kingdom's Advisory Council on the Misuse of Drugs. 2002. *The Classification of Cannabis Under the Misuse of Drugs Act of 1971*. London.

⁴ Canadian House of Commons Special Committee on the Non-Medical Use of Drugs. 2002. *Policy for the New Millennium: Working Together to Redefine Canada's Drug Strategy*. Ottawa.

⁵ Australian Senate Standing Committee on Social Welfare. 1977. *Drug Problems in Australia: An Intoxicated Society*. Australia Government Publishing Service: Canberra, Australia.

⁶ New Zealand Parliamentary Health Select Committee. 1998. *Inquiry into the Mental Health Effects of Cannabis*. Parliament House: Wellington.

⁷ Swiss Federal Commission for Drug Issues. 1999. *Cannabis Report of the Swiss Federal Commission for Drug Issues*. Swiss Federal Office of Public Health: Bern.

Netherlands, among others.⁸ In Australia, several states⁹ have enacted regional decriminalization policies, and in the United States, more than ten states have had marijuana decriminalization laws on the books for the past 25 years.¹⁰ In addition, governments in Canada, Great Britain and France have recently announced that they will soon be implementing decriminalization policies nationwide.¹¹

Despite opponents' concerns that marijuana decriminalization might lead to an increase in marijuana use, national and international studies have found this belief to be unwarranted. For example, a recent study published in the *British Journal of Psychiatry* examining marijuana prevalence in the Netherlands -- where federal law allows for the regulated sale and use of cannabis for those over 16 years of age -- compared to that of other nations concluded, "The Dutch experience, together with those of a few other countries with more modest policy changes, provides a moderately good empirical case that removal of criminal prohibitions on cannabis possession (decriminalization) will not increase the prevalence of marijuana or any other illicit drug; the argument for decriminalization is thus strong."¹²

A similar comparison study conducted by the Australian Institute of Criminology also found that decriminalizing marijuana had no adverse impact on cannabis consumption. "The different laws which govern the use and sale of marijuana do not appear to have resulted in substantially different outcomes if we view those outcomes solely in terms of consumption patterns," the study's authors found.¹³ And in the United States, a federally commissioned study by the University of Michigan's Institute for Social Research concluded that decriminalization has "had virtually no effect on either the marijuana use or on the related attitudes and beliefs about marijuana use among young people."¹⁴

In sum, marijuana decriminalization has a long and successful history as a public policy throughout the globe, and does not lead to an increase in the prevalence of marijuana use.

MARIJUANA DECRIMINALIZATION IN JAMAICA: AN ANALYSIS OF THE RECOMMENDATIONS OF THE NATIONAL COMMISSION ON GANJA

Having examined the issue of marijuana decriminalization in general, NORML will now comment specifically on the National Commission's recommendations regarding the decriminalization of cannabis in Jamaica.

"THE RELEVANT LAWS BE AMENDED SO THAT GANJA BE DECRIMINALISED FOR PRIVATE, PERSONAL USE OF SMALL QUANTITIES BY ADULTS"

⁸ NORML. 2002. *European Drug Policy: 2002 Legislative Update*. Washington, DC (available online at: http://www.norml.org/index.cfm?Group_ID=5446)

⁹ Australian Capitol Territory, New South Wales, South Australia, and Victoria

¹⁰ Alaska, California, Colorado, Maine, Minnesota, Mississippi, Nebraska, Nevada, New York, North Carolina, Ohio, and Oregon

¹¹ In all three countries, amending federal law will simply codify existing police practices, as minor marijuana offenders are rarely arrested or imprisoned in these nations.

¹² R. MacCoun and P. Reuter. 2001. Evaluating alternative cannabis regimes. *British Journal of Psychiatry* 178: 123-128.

¹³ Australian Institute of Criminology and the New South Wales Department of Politics. 1997. *Marijuana in Australia, patterns and attitudes*. Monograph Series No. 31, Looking Glass Press (Public Affairs): Canberra, Australia.

¹⁴ L. Johnston et al. 1981. *Marijuana Decriminalization: The Impact on Youth 1975-1980* (Monitoring the Future Occasional Paper 13). Institute for Social Research, University of Michigan: Ann Arbor.

NORML supports this recommendation of the Commission wholeheartedly. Marijuana is far less dangerous than alcohol or tobacco, and fails to inflict the types of serious health consequences these two legal drugs cause. For example, in the United States, approximately 46,000 people die each year from alcohol-induced deaths (not including motor vehicle fatalities where alcohol impairment was a contributing factor), such as overdose and cirrhosis.¹⁵ Similarly, more than 440,000 premature deaths annually are attributed to tobacco smoking.¹⁶ By comparison, marijuana is non-toxic and cannot cause death by overdose.¹⁷ In a large-scale U.S. population study of marijuana use and mortality published in the *American Journal of Public Health*, marijuana use, even long-term, "showed little if any effect ... on non-AIDS mortality in men and on total mortality in women."¹⁸ And according to the prestigious European medical journal, *The Lancet*, "The smoking of cannabis, even long-term, is not harmful to health."¹⁹ ... It would be reasonable to judge cannabis as less of a threat ... than alcohol or tobacco."²⁰

Additional concerns regarding marijuana's perceived public health and safety risks have also proven false under scientific scrutiny. For example, a 2002 Canadian Senate special select committee report concluded that: marijuana is not a gateway to the use of hard drugs²¹; marijuana use does not lead to the commission of crime²²; marijuana users are unlikely to become dependent²³; and marijuana use alone has little negative impact on driving.²⁴

After having considered this evidence, NORML believes that any minor health and safety risk presented by marijuana smoking falls within the ambit of choice we permit the individual in a free society. Therefore, NORML maintains -- as does this Commission -- that cannabis' low risk potential fails to justify its criminal prohibition. Responsible adult marijuana smokers present no legitimate threat or danger to society, and there is no reason for the federal law to define them as criminals. To do so is to wage war without cause against a significant segment of Jamaica's adult population.

NORML further agrees with the Commission's finding that criminalizing marijuana use despite its relative safety is a misapplication of the criminal sanction and inspires disrespect for the rule of law. The Commission writes:

¹⁵ Center for Disease Control National Vital Statistics Report. September 16, 2002.

¹⁶ Center for Disease Control Morbidity and Mortality Weekly Report. April 2002. (available online at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm#tab1>)

¹⁷ Australian National Drug and Alcohol Research Centre. 1994. *The Health and Psychological Consequences of Cannabis Use*. Canberra: Australian Government Publishing Service. See specifically: Chapter 9, Section 9.3.1 Acute Effects: "There are no recorded cases of fatalities attributable to cannabis, and the extrapolated lethal dose from animal studies cannot be achieved by recreational users."

¹⁸ S. Sidney et al. 1997. Marijuana Use and Mortality. *American Journal of Public Health* 87: 1-4.

¹⁹ Editorial: "Deglamorising Cannabis." November 11, 1995. *The Lancet* 346.

²⁰ Editorial: "Dangerous Habits." November 14, 1998. *The Lancet* 352.

²¹ Canadian Special Senate Committee on Illegal Drugs. 2002. *Cannabis: Our Position for a Canadian Public Policy*. Ottawa. See specifically: p. 15, "Cannabis itself is not a cause of other drug use. In this sense, we reject the gateway theory."

²² Ibid. See specifically: p. 15, "Cannabis itself is not a cause of delinquency and crime; and cannabis is not a cause of violence."

²³ Ibid. See specifically pp. 16-17: "Most users are not at-risk users ... and most experimenters stop using cannabis. ... Heavy use of cannabis can result in dependence requiring treatment; however, dependence caused by cannabis is less severe and less frequent than dependence on other psychotropic substances, including alcohol and tobacco."

²⁴ Ibid. See specifically p. 18: "Cannabis alone, particularly in low doses, has little effect on the skills involved in automobile driving. Cannabis leads to a more cautious style of driving. [Cannabis does have] a negative impact on decision time and trajectory [however] this in itself does not mean that drivers under the influence of cannabis represent a traffic safety risk."

"The Commission takes the view that, ironically, the criminal status of ganja poses a serious danger to society. By alienating and criminalising hundreds of thousands of otherwise law-abiding citizens, and by making the State in their view an instrument of their oppression rather than their protection, the law and its prosecution create in them disrespect for the rule of law. When the rule of law goes, anarchy sets in. Any law that brings the rule of law into disrepute is itself a threat to the stability of society."²⁵

NORML concurs with this conclusion. If the expressed purpose of the criminal law is to deter or at least significantly discourage behavior, then by this standard alone, Jamaica's marijuana laws have been a categorical failure. Marijuana use in Jamaica remains widespread²⁶ despite the enforcement of criminal laws outlawing its use, and federal studies indicate that neither the criminal law, nor the threat of arrest, significantly influence one's decision to use marijuana.²⁷ Nevertheless, the Jamaican government continues to enforce criminal prohibition -- a decision that has led to the arrest, incarceration and disenfranchisement of tens of thousand of Jamaicans, while having little, if any, impact on the prevalence of cannabis use.

Moreover, the use of marijuana has long been entrenched in Jamaican culture, and a policy of decriminalization would be a first and well-advised step in reflecting this cultural reality. By decriminalizing the personal possession and use of marijuana, Parliament would remove the responsible adult marijuana smoker beyond the reach of the criminal justice system, and end the State's needless destruction of the lives and careers of tens of thousands of otherwise law-abiding citizens whose only "crime" is that they prefer cannabis to relax rather than alcohol. Decriminalization would acknowledge that the responsible use of marijuana poses little health or safety threat, and that its use as a medicine, intoxicant, and a sacrament is an established part of the Jamaican culture. Finally, marijuana decriminalization would address the inequity that governs the legalization and control of tobacco and alcohol while simultaneously prohibiting the use of cannabis -- a policy that the Commission correctly points out "cannot be rationally justified" and, as such, engenders disrespect for the rule of law in general -- particularly among young people.

"DECriminalISATION FOR PERSONAL USE SHOULD EXCLUDE SMOKING BY JUVENILES OR BY ANYONE IN PREMISES ACCESSIBLE TO THE PUBLIC"

Marijuana smoking is for adults only, and is inappropriate for children.²⁸ Therefore NORML supports the Commission's recommendation that marijuana be decriminalized for adults but remain off-limits for children. (Under such a system, minors who illegally possess or consume marijuana would still face strict civil penalties, such as fines and community service.) There are many activities in our society that are permissible for adults, but forbidden for children, such as gambling, skydiving, signing contracts, getting

²⁵ Jamaican National Commission on Ganja. 2001. *A Report of the National Commission on Ganja*. p. 42.

²⁶ *Ibid.* See Specifically: p. 9, "The 1990 Carl Stone study among respondents age 15 and over island wide showed 47% in the Metropolitan areas and 43% in the rural areas had [previously] used ganja."

²⁷ D. Weatherburn and C. Jones. 2001. *Does prohibition deter cannabis use?* New South Wales (Australia) Bureau of Crime Statistics: Sydney. See specifically: "Fear of apprehension, fear of being imprisoned, the cost of cannabis or the difficulty in obtaining cannabis do not appear to exert a strong influence on decisions about cannabis consumption. ... Those factors may limit cannabis use among frequent cannabis users, but there is no evidence, as of yet, to support this conjecture."

²⁸ See specifically NORML's Principles of Responsible Cannabis Use. http://www.norml.org/index.cfm?Group_ID=3417



married, drinking alcohol or smoking tobacco. However, we as a society do not condone arresting adults who responsibly engage in these activities in order to dissuade our children from doing so. Nor can we justify arresting adult marijuana smokers on the grounds of sending a "message" to children. Our expectation and hope for young people is that they grow up to be civic-minded, responsible adults, and our obligation to them is to demonstrate what that means. NORML believes that a system of marijuana decriminalization -- whereby the responsible use of marijuana by adults is no longer a criminal offense, but criminal acts committed while under the drug's influence (such as driving while impaired) remain illegal -- adequately and rationally presents this message better than does the current Jamaican policy of blanket prohibition.

"GANJA SHOULD BE DECRIMINALIZED FOR USE AS A SACRAMENT FOR RELIGIOUS PURPOSES"

The Commission found that many Jamaicans hold strong, sincere beliefs that marijuana is a "substance given by God to be used as mankind sees fit."²⁹ Therefore, the Commission recommends that the use of marijuana for religious purposes no longer be a crime. NORML agrees with the Commission's recommendation, noting that religious freedom is one of the foundations of a free society, and that marijuana's low risk to public health and safety fails to justify any governmental intrusion into the public's ability to freely practice their religion however they see fit.

"A SUSTAINED ALL-MEDIA, ALL-SCHOOLS EDUCATION PROGRAMME AIMED AT DEMAND REDUCTION ACCOMPANY THE PROCESS OF DECRIMINALISATION AND THAT ITS TARGET SHOULD BE, IN THE MAIN, YOUNG PEOPLE"

NORML agrees with this recommendation, adding once again, that the possession and use of marijuana is for responsible adults and not children. It would be our expectation that under a decriminalized system, drug education programs dedicated toward preventing young people from experimenting with marijuana would move in a more health-and-science based direction, such as those in the United States of America that currently dissuade teens from trying tobacco or driving under the influence of alcohol. These latter campaigns, which rely on scientific facts and health concerns have effectively reduced undesirable teenage behavior whereas similar government-financed ad campaigns targeting adolescent marijuana use which rely on hyperbole and scare-tactics, have not.

It is NORML's further expectation that any future federally sponsored drug education programs will immediately be seen as more credible in the eyes of young people once the government has acknowledged marijuana's relative safety and has legally distinguished it from harder, more dangerous drugs such as cocaine and heroin.

"SECURITY FORCES INTENSIFY THEIR INTERDICTION OF LARGE CULTIVATION OF GANJA AND TRAFFICKING OF ILLEGAL DRUGS, IN PARTICULAR CRACK/COCAINE"

Decriminalization would free millions of dollars in police and prosecutorial resources that are currently used to target, prosecute and jail minor marijuana offenders, while potentially raising additional revenue through the use of civil fines. NORML agrees with the Commission that marijuana decriminalization

²⁹ Jamaican National Commission on Ganja. 2001. *A Report of the National Commission on Ganja*. p. 20.

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would -- and should -- free up criminal justice resources to target other more serious crimes, and allow law enforcement to focus on the highest echelons of hard-drug trafficking enterprises rather than on minor marijuana offenders who represent little -- if any -- threat to public safety.

"JAMAICA EMBARK ON DIPLOMATIC INITIATIVES WITH ... COUNTRIES OUTSIDE THE REGION, IN PARTICULAR, MEMBERS OF THE EUROPEAN UNION, WITH A VIEW (A) TO ELICIT SUPPORT FOR ITS INTERNAL POSITION, AND (B) INFLUENCE THE INTERNATIONAL COMMUNITY TO RE-EXAMINE THE STATUS OF CANNABIS"

NORML supports the Commission's call for a worldwide review of marijuana policy, and notes that such a re-examination is already taking place. As noted earlier in this testimony, nations throughout the globe are abandoning criminal penalties for the possession and use of marijuana in favor of decriminalization, or in some cases, legalization. Within the past years, marijuana decriminalization has become law in the countries of Belgium, Portugal, Luxembourg, and Croatia, among others, and will soon be the national policy of Great Britain, France, and Canada. In addition, both the Netherlands and Switzerland have explored various forms of cannabis regulation, and both Canada and the Netherlands have recently adopted policies allowing for the federal distribution and regulation of marijuana for medicinal purposes.

In addition, it is worth noting that the majority of these countries have liberalized their marijuana laws despite being signatories of international drug treaties, in particular the 1961 Single Convention on Narcotic Drugs. While proponents of marijuana prohibition have often argued that these treaty obligations require signatories to adhere to a rigid national policy of criminal marijuana prohibition, several studies have concluded that these treaties do not prohibit countries from relaxing legal restrictions on the personal use or cultivation of marijuana.

Most recently, a legal study released by the British think-tank DrugScope concluded that governments have "considerable room for maneuver under the terms of the three drug control Conventions," adding that the treaties allow for measures such as "education, rehabilitation and social reintegration ... [to] be substituted for conviction and penal sanction" in drug cases.³⁰ Authors noted that many European nations have replaced criminal penalties for minor drug crimes with "administrative sanctions" without running afoul with U.N. treaties by either calling on "constitutional principles, principles of proportionality or public interest criteria with regard to use or possession offenses which are considered minor in nature, [or by invoking their] right ... to apply alternatives to punishment for offenses which have been established as punishable."³¹

Other studies, including the United States' First Report of the National Commission on Marihuana and Drug Abuse, have reached similar conclusions, concluding that the word "possession" in Article 36 of the Single Convention "refers not to possession for personal use, but to possession as a link to illicit trafficking."³²

CONCLUSION

³⁰ N. Dorn and A. Jamieson. 2001. *European Drug Laws: the Room for Manoeuvre*. DrugScope: London.

³¹ Ibid.

³² First Report of the National Commission on Marihuana and Drug Abuse. 1972. *Marihuana: A Signal of Misunderstanding*.

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Responsible marijuana smokers present no legitimate threat or danger to society, and must not be treated as criminals. By stubbornly defining all marijuana smoking as criminal, including that which involves adults smoking within the privacy of their own homes, Jamaica is wasting precious police and prosecutorial resources; clogging the courts; filling costly and scarce jail and prison space that would otherwise house violent offenders; undermining drug education efforts; acting against the best interests of public health and safety; engendering disrespect for the rule of law; and needlessly wrecking the lives and careers of tens of thousands of otherwise law-abiding citizens every year.

NORML thanks the Commission on Ganja for their diligent work on this issue, and applauds their recommendation to amend Jamaican federal law to allow for the private, personal use of small quantities of marijuana by adults. Finally, as the NORML organization is internationally recognized as an expert of the subject of marijuana and marijuana policy, we would welcome the opportunity to provide additional testimony to the Jamaican Parliament on this matter if and when future hearings are convened.