Findings by Cannabis Commissions

By Jeremy Acton April 2011

Introduction

This paper looks at the findings of a few Commissions of Enquiry into the appropriate legal and social status of Cannabis. The Commissions here included are:

- 1. A Report by the National Commission on Ganja to the Prime Minister of Jamaica in 2001.
- 2. The Report of the Canadian Government Commission of Inquiry into the Non-Medical Use of Drugs, 1972. (Le Dain Commission)
- 3. National Commission on Marihuana and Drug Abuse.(USA), 1972. (Shafer Commission)
- 4. The Beckley Foundation Global Cannabis Commission. 2009

The Commissions

1. National Commission on Ganja, Jamaica. August 7, 2001.

from http://www.cannabis-med.org/science/Jamaica.htm

This commission found that, despite any harms that may be caused by Cannabis (ganja), most submissions to the Commission believed that the prohibition and criminalization of Cannabis use was harmful to the individual and to Jamaican society, and the hearings recorded overall support from participants for the decriminalization of the possession of Cannabis in Jamaica. The findings were however, completely ignored by the Jamaican government, after pressure from the British Government.

A REPORT

OF THE

NATIONAL COMMISSION ON GANJA

TO

Rt. Hon. P.J. PATTERSON, Q.C., M.P. PRIME MINISTER OF JAMAICA

PREPARED BY:

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August 7, 2001

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

Accordingly the Commission recommends as follows:

that the relevant laws be amended so that ganja be decriminalised for the private, personal use of small quantities by adults;

that decriminalisation for personal use should exclude smoking by juveniles or by anyone in premises accessible to the public;

that ganja should be decriminalised for use as a sacrament for religious purposes;

that 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;

that the security forces intensify their interdiction of large cultivation of ganja and trafficking of all illegal drugs, in particular crack/cocaine;

that, in order that Jamaica be not left behind, a Cannabis Research Agency be set up, in collaboration with other countries, to coordinate research into all aspects of cannabis, including its epidemiological and psychological effects, and importantly as well its pharmacological and economic potential, such as is being done by many other countries, not least including some of the most vigorous in its suppression; and

that as a matter of great urgency Jamaica embark on diplomatic initiatives with its CARICOM partners and other countries outside the Region, in particular members of the European Union, with a view (a) to elicit support for its internal position, and (b) to influence the international community to re-examine the status of cannabis.

2. 2. The Report of the Canadian Government Commission of Inquiry into the Non-Medical Use of Drugs, 1972.

The Commission of Inquiry into the Non-Medical Use of Drugs, often referred to as the Le Dain Commission after its chair Dean Gerald Le Dain, was a Canadian government commission that was begun in 1969 and completed its work in 1972. The final report recommended that cannabis be removed from the Narcotic Control Act and that the provinces implement controls on possession and cultivation, similar to those governing the use of alcohol. The report also recommended that the federal government conduct further research to monitor and evaluate changes in the extent and patterns of the use of cannabis and other drugs, and to explore possible consequences to health, and personal and social behaviour, resulting from the controlled legal distribution of cannabis.

A total of 365 submissions were presented at the hearings and an additional 50 were forwarded to the Commission's office. About 12,000 people attended and participated in these hearings, which included testimony from a number of prominent individuals including John Lennon on 22 December 1969 in Montreal.^[1]

Although the report was widely praised for its thoroughness and thoughtfulness, its conclusions were largely ignored by the federal government.

From: http://www.druglibrary.org/schaffer/Library/studies/ledain/ldctoc.html

CONCLUSIONS AND RECOMMENDATIONS

of Gerald Le Dain, Heinz Lehmann, J. Peter Stein

We recommend the following changes in the law respecting the illegal distribution of cannabis:

- (a) Importing and exporting should be included in the definition of trafficking as they are under the Food and Drugs Act), and they should not be subject to a mandatory minimum term of imprisonment. It might be appropriate, however, to make them subject to somewhat higher maximum penalties than other forms of trafficking.
- (b) There should be an option to proceed by indictment or summary conviction in the case of trafficking and possession for the purpose of trafficking.
- (c) Upon indictment, the maximum penalty for trafficking or possession for the purpose of trafficking should be five years, and upon summary conviction, eighteen months. It should be possible in either case to impose fine in lieu of imprisonment.
- (d) In cases of possession for the purpose of trafficking it should be sufficient, when possession has been proved, for the accused to nise a reasonable doubt as to his intention to traffic. He should not be required to make proof which carries on a preponderance of evidence or a balance of probabilities.
- (e) Trafficking should not include the giving, without exchange of value, by one user to another of a quantity of cannabis which could reasonably be consumed on a single occasion.
- 7. The costs to a significant number of individuals, the majority of whom are young people, and to society generally, of a policy of prohibition of simple possession are not justified by the potential for harm of cannabis and the additional influence which such a policy is likely to have upon perception of harm, demand and availability. We, therefore, recommend the repeal of the prohibition against the simple possession of cannabis.

The cultivation of cannabis should be subject to the same penalties as trafficking, but it should not be a punishable offence unless it is cultivation for the purpose of trafficking. Upon proof of cultivation, the burden should be on the accused to establish that he was not cultivating for the purpose of trafficking, but it should be sufficient for him, as in the case of possession for the purpose of trafficking, to raise a reasonable doubt concerning the intent to traffic.

- 9. The police should have power to seize and confiscate cannabis and cannabis plants wherever they are found, unless the possession or cultivation has been expressly authorized for scientific or other purposes.
- 3. National Commission on Marihuana and Drug Abuse, USA, 1972 (Shafer Commission)

http://en.wikipedia.org/wiki/National_Commission_on_Marihuana_and_Drug_Abuse

The National Commission on Marihuana and Drug Abuse was created by Public Law 91-513 to study marijuana abuse in the United States. While the Controlled Substances Act was being drafted in a House committee in 1970, Assistant Secretary of Health Roger O. Egeberg had recommended that marijuana temporarily be placed in Schedule I, the most restrictive category of drugs, pending the Commission's report. On March 22, 1972, the Commission's chairman, Raymond P. Shafer, presented a report to Congress and the public entitled "Marijuana, A Signal of Misunderstanding," which favored ending marijuana prohibition and adopting other methods to discourage use.

The Commission recommended decriminalization of simple possession, finding:

[T]he criminal law is too harsh a tool to apply to personal possession even in the effort to discourage use. It implies an overwhelming indictment of the behavior which we believe is not appropriate. The actual and potential harm of use of the drug is not great enough to justify intrusion by the criminal law into private behavior, a step which our society takes only 'with the greatest reluctance.

The Commission also recommended that the distinctions between licit and illicit drugs be dropped, finding that "the use of drugs for pleasure or other non-medical purposes is not inherently irresponsible; alcohol is widely used as an acceptable part of social activities"[1].

The <u>Nixon</u> administration did not implement the study's recommendations; and in fact, while the study was pending, Nixon attempted to influence the result by telling Shafer, "You're enough of a pro to know that for you to come out with something that would run counter to what the Congress feels and what the country feels, and what we're planning to do, would make your commission just look bad as hell." However, the report has frequently been cited by individuals supporting <u>removal of cannabis from Schedule I of the Controlled Substances Act[2]</u>.

4. The Beckley Foundation Global Cannabis Commission, 2009

The Beckley Foundation Global Cannabis Commission, after a detailed evaluation of the effects of global Cannabis prohibition policy on society, recommended to the United Nations Convention on Narcotic Drugs held in Vienna, Austria, in March 2009, that all nations signatory to the Convention should denounce the 1961 and 1988 conventions, and re-accede with reservations with respect to Cannabis.:

Quote begins (from Beckley Foundation Global Cannabis Commission's Conclusions and Recommendations):

":Setting the international conventions aside:

24. The international drug control regime should be changed to allow a state to adopt, implement and evaluate its own cannabis regime within its borders.

This would require changes in the existing conventions, or the adoption of a new pre-emptive convention.

- 25. In the absence of such changes, a state can act on its own by denouncing the conventions and re-acceding with reservations, or by simply ignoring at least some provisions of the conventions.
- 26. Any regime which makes cannabis legally available should involve state licensing or state operation of entities producing, wholesaling and retailing the drug (as is true in many jurisdictions for alcoholic beverages). The state should, either directly or through regulation, control potency and quality, assure reasonably high prices and control access and availability in general and particularly to youth.
- 27. The state should ensure that appropriate information is available and actively conveyed to users about the harms of cannabis use. Advertising and promotion should be banned or stringently limited to the extent possible.
- 28. The impacts of any changes, including any unintended adverse effects, should be closely monitored, and there should be the possibility for prompt and considered revision if the policy increased harm."

Quoting here on Page 5 of the Beckley Foundation Global Cannabis Commission's Conclusions and Recommendations, the Commission made the following observations and recommendations:

BEYOND THE INTERNATIONAL TREATIES

11. The present international treaties have inhibited depenalization and prevented more thoroughgoing reforms of national cannabis regimes.

Regimes which do go beyond depenalization or decriminalization have been characterized by inconsistencies and paradoxes. For example, the Dutch coffee shops may sell cannabis products through the front door, but are not supposed to buy their supplies at the back door.

12. 'That which is prohibited cannot be regulated'. There are thus advantages for governments in moving toward a regime of regulated legal availability under strict controls, using the variety of mechanisms

available to regulate a legal market, such as taxation, availability controls, minimum legal age for use and purchase, labeling and potency limits. Another alternative, which minimizes the risk of promoting cannabis use, is to allow only small scale cannabis production for one's own use or gifts to others.

- 13. There are four main choices for a government seeking to make cannabis available in a regulated market in the context of the international conventions:
- (1) In some countries (those that follow the expediency principle), it is possible to meet the letter of the international conventions while allowing *de facto* legal access. The Dutch model is an example.
- 14. If a nation is unwilling to do this, there are three routes which are the most feasible:
- (2) Opting for a regulated availability regime which frankly ignores the conventions. A government that follows this route must be prepared to withstand substantial international pressure.
- (3) Denouncing the 1961 and 1988 conventions, and re-acceding with reservations with respect to cannabis.
- (4) Along with other willing countries, negotiating a new cannabis convention on a supra-national basis.
- 15. The record is mixed concerning whether making cannabis use and sale legal in a highly regulated market would lead to increased harm from cannabis use in the long run. Experience with control regimes for other psychoactive substances teaches that lax regimes and allowing extensive commercial promotion can result in high levels of use and of harm, while stringent control regimes can hold down levels of use and of harm.
- 16. A nation wishing to make cannabis use and sale legal in a regulated market should draw on the substantial experience with other relevant control regimes for psychoactive substances. These include pharmacy and prescription regimes, alcohol sales monopolies, labelling and licensing, availability and taxation controls. Special attention should be paid to limiting the influence and promotion of use by commercial interests. Attention should also be paid to the negative lessons from the minimal market controls which have often applied for tobacco and alcohol, as well as to the positive examples."

 (End of quote)

Comments

Although all of the above Commissions found (had to find!) from empirical observation that the use of Cannabis caused no physical harm to the majority of individuals and that Cannabis is also not in general harmful to society in that it did not cause criminality or violence, or even act as a gateway drug, they all still viewed Cannabis as a potentially harmful drug requiring strict State supervision and, in fact, suppression.

These commissions, despite recommending decriminalization for possession, do not address the question of HOW a person may acquire the Cannabis they possess without breaking the law.

As a result of the limited view that Cannabis is only a drug that **might** cause harm, and their avoidance of the broader potential benefits of Cannabis to society in terms of medical benefits, energy supply, industrial applications, and the potential for a positive, constructive Cannabis-based culture and spirituality, they all fail to recognize that Prohibition is, overall, a liability to our society. The Prohibition of Cannabis prevents our society from achieving carbon neutrality, a more productive and sustainable agriculture and, with moderate use by citizens, improved health in the population. Thus these commissions subscribed to the very agenda promoted by the Prohibitionists.

This attitude of subservience to the notions of control and prevention by the State of the right of citizens to produce Cannabis for ALL of its potential benefits perpetuates the notion that people are innately dissolute and require the State to control people's free choices lest citizens fall into harm.

These commissions also forget that the State is (or should be) the servant of a Nation's citizens, and should act upon the will of the people. The fact that all of these Commissions were ultimately ignored by their respective Governments points to the possibility of motivations other than the 'protection against harm from abuse' reasons for the maintenance of Prohibition. The possible reason(s) for this are discussed in the article "Cannabis vs. Vested Interests" by Jeremy Acton.

Conclusion

In the 'new' South Africa (post 1994), the State has never held a public Commission of Inquiry into the appropriate legal status of Dagga or asked the citizens if they would like to see the legalization of Dagga. The State has never asked citizens for their

opinion on how legalization could be achieved so that <u>benefits are maximized</u> and potential harms are minimized.

In a country where rights and Justice and sensible decisions are apparently valued, the present Legal status of Dagga and the present disrespect for the rights of members of the Dagga Culture in South Africa deserve intelligent reconsideration. This debate is long overdue.

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