

# **A roadmap to regulating the cannabis market in Saint Lucia**

**Presented To the Honourable Prime Minister of Saint Lucia**

**Presented by: Cannabis Movement of Saint Lucia**

**March 2019**

## **Table of Contents**

Priority items in the order of “ease to execute”  
Proposal  
Background  
National Hearings of the Cannabis Commission  
PEMANDU Lab Exercise and Output on Cannabis Reform  
Addressing negative assumptions  
Increased use after regulation  
Special considerations for children and youth  
Overwhelming majority of opinion in favour of law reform  
Main Rationales for Calls for Reform  
International movement to embrace a health & rights centred approach  
2016 UNGASS on drug policy  
UN Global Commission on Drug Policy  
The OAS Drug Report  
The SDGs and Cannabis  
Heads call for public health approach 2002  
Use in Religious Practices  
Religious Views, Rights and the Rastafarians  
Religious resistance to cannabis reform  
Scientific and medical context  
Evidence of positive medicinal benefits now indisputable  
The authority to reschedule cannabis in Saint Lucia  
Cannabis strains and cannabinoids and the endocannabinoid system  
Regulations for controlling “strength”  
Preparatory work commenced on setting cannabis “standards”  
New laws permitting medical cannabis  
Economic basis for cannabis law reform  
Current cost of enforcement  
Cannabis and Environmental Considerations  
Human Rights Issues  
Appropriate Personal Amounts in Law Reform  
Public Smoking  
Ancillary Laws Supporting Illegality – The Financial Collateral Problem  
Urgent Need for Patent Law in Law Reform Process  
Regional Law Reform Initiatives

Legal growing of cannabis  
Expunging criminal records for cannabis offences  
Challenging the International Regime on Human Rights Grounds  
Removing Illegal Status Removes Legal Issues on Proceeds of Crime  
Appendix 1 Suggested Amendments to the “Drugs” Act #22 of 2008  
Appendix 2 CARICOM Member States who’s “Drugs Acts” that allow cannabis use  
Appendix 3 PEMANDU Lab Output on Cannabis Reform  
Appendix 4 THE REGULATION OF CANNABIS IN SAINT LUCIA

### **Priority items in the order of “ease to execute”**

1. Reschedule cannabis and create a mechanism to issue licenses for medicinal production and use
2. Define hemp, cannabis <5% THC, and remove hemp from the misuse of drug act
3. Allow hemp farming and hemp industry to proceed as for any agricultural product
4. Draft Cannabis law to address, cannabis with THC >5%
  - sacramental use
  - personal use
  - medical use
  - cannabis farming
  - cannabinoid extraction
  - export of extracts and cannabis products
  - transportation, retail and storage of cannabis and cannabis products

### **Proposal**

The purpose of this white paper is to propose a regulatory framework for the sacramental, medicinal, personal, industrial and commercial use of cannabis in Saint Lucia. This information in this paper is based on, consultations of the Saint Lucia Cannabis Movement with various stakeholders, the published findings of the CARICOM Cannabis Commission and the outcome of the PEMANDU Saint Lucia Social and Economic Lab output on Agriculture and specifically drawing on the sub-area: Cannabis Reform - Syndication Session 6 December 2018

### **Background**

This paper draws extensively on the report of the CARICOM Cannabis Commission that was mandated by the Conference of Heads of Government at its Twenty-Fifth Inter-Sessional Meeting (SVG, March 2014), mandating the Commission to interrogate the issue of possible reform to the legal regimes regulating cannabis in CARICOM countries. The Commission tendered it’s report at the 39<sup>th</sup> Regular Meeting of the Conference of Heads of Governments. In it’s Communiqué, the Heads noted the Commissions’ findings, conclusions and recommendations, in particular with respect to human and religious rights; the social and developmental impact of use among adolescents; the economic benefits to be derived and issues related to its classification.

Heads of Government recognised that the current classification of cannabis as an illicit drug with no medical benefits presented a challenge in the conduct of research to further understand and ascertain the medicinal benefits to be derived.

The Heads were deeply concerned that thousands of young persons throughout the region had suffered incarceration for cannabis use and consumption and many, after their first experiences with the law, resolved to continue with crime as a way of life. Inconsistent applications of the law had led to deep resentment and non-cooperation with law enforcement agencies.

The Heads were also mindful that for years, Caribbean citizens had promoted the value of cannabis for its medicinal properties. Since the legalisation of medical cannabis in 1998 in California and British Columbia, these claims have been supported by emerging scientific evidence.

There was a concern among the Heads and mirrored in Saint Lucia that without action, the region could be left behind, economically due to the fast-paced global trends toward law reform in terms of cannabis.

Already, several states in the US had decriminalised the use of cannabis for medicinal uses. Uruguay, a sister OAS state, had legalised the consumption of cannabis . In the OECS, Antigua and Barbuda have decriminalised 15 grams of cannabis for personal use, while Jamaica allows 50 grams. Both states have vowed to produce a comprehensive Cannabis Act as their next step toward regulation.

### **National Hearings of the Cannabis Commission**

An important part of the Commission's mandate was to undertake a number of national consultations in Member States to solicit the views of the CARICOM public. Despite not having come to Saint Lucia the consultations held in fellow CARICOM jurisdictions displayed a depth of interest, passion and knowledge that accompanied the work of the regional Cannabis Commission was perhaps surprising to some Commissioners and even the policy-makers who attended packed public meetings.

Contributors spoke to broad issues, moving way beyond the narrow constraints of medical cannabis , to embrace notions of social justice, human rights, economics, regional hegemony and their right to health.

The prohibition on cannabis is an issue of deep social significance to Saint Lucians. This paper will serve as important developmental tool centred on human rights and democratic ideals consonant with the sustainable development goals (SDGs) that Saint Lucia has embraced and that it will bring meaningful change to our nation.

### **PEMANDU Lab Exercise and Output on Cannabis Reform**

The GoSL identified three Game Changers to be addressed by the PEMANDU lead “Agriculture KRA” lab:

- Reducing food imports,
- Increase crop diversification,
- Enforcement of Sanitary and Phytosanitary Legislation.

Under the crop diversification heading, the focus was on identifying crops with high yields/value. One such crop identified by the GoSL was cannabis. The attached Output from that Lab contains the information on:

- Cannabis Reform Charters
- Regulatory Framework
- Social
- Health
- Jamaica Case Study
- Cost Benefit Analysis (Barbados, Bahamas, Grenada)
- Reclassification of Hemp

See Appendix 5 for the full output and economic arguments for cannabis regulation.

Proposed Regulatory Framework See Appendix 4

### **Addressing negative assumptions**

#### **Increased use after regulation**

Data from countries that have either decriminalised or legalised cannabis report that there is no statistically significant increase in usage as a result. This is the experience, e.g. in Canada.[i] Jamaica, which decriminalised cannabis in 2015, confirms this finding.[ii]

The Cannabis Commission reported that they were satisfied that, except for medical purposes, the fears that law reform will cause a floodgate movement toward cannabis use was unfounded, particularly if law reform is undertaken with the appropriate educational and marketing programs in place.

The main focus of those against cannabis law reform lay with concerns for:

- the youth,
- mental health,
- and the institutional capacity of the States to manage public health objectives and effectively regulate the substance.

The Commission’s report stated that it was confident that the recommendations put forth in the Report adequately address these legitimate concerns.

### Special considerations for children and youth

An important issue is the effect of cannabis and cannabis policy on children and young persons.

Despite the current prohibitive regime, the prevalence rate of cannabis use by children and young persons is significant. The general accessibility of cannabis to youth is generally acknowledged.

The current legal regime, based on prohibition and criminal sanction, is failing to protect our children and youth from cannabis use. A different approach needs to be taken to educate young people on the risks of early initiation of cannabis use. Individuals who express an interest in using cannabis should be encouraged to postpone 1<sup>st</sup> use at least till age 18.

### Overwhelming majority of opinion in favour of law reform

There is overwhelming support for law reform, at least the removal of criminal penalties on cannabis.

The Commission reported that in the countries of the Eastern Caribbean, the majority were in favour of law reform and removing criminal sanctions:

- Dominica 57% wanted to see the law changed to remove sanctions.[iii] St. Vincent and the Grenadines, 9% supported full legalisation 35% partial decriminalisation[iv]
- *Saint Lucia, in a poll conducted in September 2017, there was also a majority in favour of law reform, 51% as opposed to 38% that wished to keep cannabis illegal.[v]*
- In Antigua and Barbuda, a poll conducted in August 2016, showed that 62% of residents supported some form of cannabis decriminalization.[vi]
- Barbados a 2008 poll found 73% wished to retain prohibition while in 2016 that fell to 37% with almost 60% of the population supporting law reform[vii].

In Jamaica (2015), the poll assessed persons between 12 – 65 years, revealing that exceedingly high majorities of Jamaicans now approve of cannabis use, for all purposes:

- 70% of persons agreed with being allowed to have limited amounts of cannabis for personal use and only 22.6% disagreed.
- 88.4% agreed with its use for medical and therapeutic purposes;
- 63.8% for religious purposes and
- 92.2% agreed that cultivation for scientific purposes should be allowed.

Recommendations for cannabis law reform are not solely on public opinion. This paper also evaluates the available scientific, medical, legal and social data to arrive at its conclusions.

### **Main Rationales for Calls for Reform**

- 1) Continued claims of persecution and discrimination by profiled categories of cannabis users, in particular low income persons and Rastafarians both, for their high visibility, bear the brunt of criminalisation; The realisation that the existing legal structure is not an effective deterrent to usage, including by minors;
- 2) The lack of proportionality in the law in terms of strict liability, harsh and mandatory sentences, when compared to other offences, including more serious offences;
- 3) Assertions of violations of religious freedom by Rastafarian religious practitioners;
- 4) Accumulated scientific data that cannabis is not as harmful as depicted and in fact, has beneficial health related properties, leading to growing demands for usage for medicinal purposes and its removal or status as a ‘dangerous drug’;
- 5) Greater awareness of the economic potential of cannabis and increasing opportunities for international and local business;
- 6) Providing opportunities for Caribbean researchers and scientists in new industries and medical revolution.
- 7) The realisation that prohibition based law is counter-productive and creates greater levels of criminality by mixing non-violent cannabis users with an incarcerated criminal population;
- 8) The belief that prohibition of “personal use” violates human rights without being “reasonably required”;
- 9) The finding that illegality leads to further criminalisation and financial sanctions because of proceeds of crime laws;
- 10) The concern that cannabis use has broader social origins, since usage, especially by young people, is directly related to structural social problems, such as social inequality; hopelessness, poverty, stress etc., which require approaches based on care and rehabilitation, public health improvements and enhanced macro-social policy, instead of punitive measures.

### **International movement to embrace a health & rights centred approach**

#### **2016 UNGASS on drug policy**

A clear call was made for a different approach to cannabis at the 2016 United Nation’s General Assembly Special Session (UNGASS) on drug policy. Several representatives and world leaders made strong statements urging member countries to move away from legal prohibition toward a liberal approach, but with effective regulations for medical Cannabis.

#### **UN Global Commission on Drug Policy**

UN Global Commission on Drug Policy has advocated the end of a criminal sanction backed regime, for controlling cannabis. It has been particularly vocal on the need to “end the war on drugs”[viii] which it declared had “failed”.

### **The OAS Drug Report**

The OAS Drug Report[ix] influenced public opinion and encouraged “UN agencies to prioritize a discussion on drugs that focuses on public health, citizen security, human rights, and development. Additionally, it called for an end to the criminalization of drug users.

### **The SDGs and Cannabis**

The Sustainable Development Goals (SDGs), which Saint Lucia has embraced, also support an anti-prohibitionist strategy toward cannabis, substituting it with health and human rights emphases:

*“Since the mid-20th century, global drug policy has been dominated by strict prohibition and the criminalisation of drug cultivation, production, trade, possession and use, with the intention of creating a drug-free world. This so-called ‘war on drugs’ has not only failed, it is also undermining efforts to tackle poverty, improve access to health, protect the environment, reduce violence, and protect the human rights of some of the most marginalised communities worldwide.”[x]*

### **Heads call for public health approach 2002**

These are not new recommendations. In response to a regional review of Drug Demand Reduction in CARICOM states, the CARICOM Heads of Government, at their Summit in July 2002, acknowledged that drug addiction and use should be treated primarily as a “public health issue”. [xi]

In the past few years a number of national commissions including those in Jamaica, the UK, and Canada have concluded that cannabis legal reform was necessary, moving from a criminal justice, law enforcement approach to a public health and human rights centred approach to cannabis that maximises benefits while reducing harms to individuals and society.

Approaching cannabis law reform from a public health, human rights, social justice and religious freedom perspective does not deny that cannabis may have adverse effects or cause harm in some cases and for some people. Rather, it posits that prohibition is not the most sensible or effective policy to address those concerns.

The public health/ rights centred approach attempts to put health promotion at the core of policy within a framework that respects individual rights as far as possible, maximising benefits for the largest number of people. It is based on evidence-informed policy and practice, turning away from punitive measures and addressing the underlying

determinants of health and rights. This philosophy guides approaches to alcohol and tobacco, and is presented as a model superior to prohibition for addressing cannabis.

### [Use in Religious Practices](#)

In the Caribbean the debate surrounding religion and cannabis primarily revolves around its use by Rastafarians. But cannabis is also used for religious purposes by Taoism and Hinduism, both of which are evident in the region.

Taoist a 4th century BC ancient Chinese belief system used in ritual incense burners to eliminate selfish desires and attain a state of naturalness[xii]. and used by Taoist priests and shamans to communicate with good and evil spirits[xiii] and reveal truths about the future[xiv].

Similarly in Hinduism one of the oldest books, the Atharva Veda, identified cannabis as one of five sacred plants and worshipped it[xv]. Moreover, the Vedas referred to cannabis as a source of happiness, joy and liberation that was compassionately given to humans to help with the attainment of delight and abandonment of fear[xvi].

The Vedas also provided an account of the Hindu God Shiva bringing the plant down from the Himalayas for use and enjoyment[xvii] and thus Hindu devotees on occasion offer cannabis to Shiva during religious ceremonies[xviii]. Within Hindu spiritual practices cannabis is used in three forms: bhang, a milky drink made from cannabis leaves and buds; charas, a type of hash made from resin; and ganja, the smoked buds[xix]. The consumption of bhang cannabis milk is considered to be a holy act which cleanses and purifies the body during religious festivals[xx]. Hindus also frequently use chilams, a clay pipe, to smoke cannabis and charas.[xxi]

### [Religious Views, Rights and the Rastafarians](#)

Cannabis was integrated into the Rastafarian religion which emerged during the 1930s in Jamaica. Rastafarianism, after struggling before the courts, was identified judicially as a religion in the case of *Francis v AG*.54 [xxii]

Cannabis is accorded sacramental importance in this religion and it is smoked to aid in spiritual quests[xxiii]. Cannabis is regarded as a “holy herb”, a gift from God that has been cultivated and smoked for its medicinal benefits as well as for its psychoactive properties to aid in a spiritual quest[xxiv]. Moreover, cannabis, called ganja by Rastafarians, is their primary sacrament and its ritualized smoking during communal smoking sessions, known as ‘reasoning’ or ‘grounding’, is paramount to their way of life[xxv].

Ganja is also viewed as the most natural and direct route to communion with God and the Rastafari brethren, and it is used as an essential element in prayer and meditation[xxvi]. Biblical verses are often cited to authenticate and legitimize the naturalness and glories of ganja[xxvii].



Some researchers have identified similarities between chillum smoking sessions of the Hindus and reasoning sessions of the Rastafarians.[xxviii]

Cannabis is integral to the Rastafarian religion's identity and **prohibition of its use constitutes an extreme invasion on their right to freedom of religion**[xxix].

Members of the Rastafarian religious community have had their religious freedoms violated as a result of the illegal status of their holy sacrament. They have been subjected to persistent and invasive targeting by the police due to their usage of cannabis.

Legislative changes in Jamaica in 2015,[xxx] created a shift in the treatment of Rastafarians who were previously liable to criminal charges related to cannabis. A policy shift is also discernible in Antigua and Barbuda, with the legislative reform of 2018 and St. Vincent

The acceptance and integration of the Rastafarian religion in Saint Lucia is indicative of their registration with the GoSL Office of Ecclesiastical Affairs.

These policy changes are in keeping with the freedom of religion that is protected under the constitution of Saint Lucia.

### **Religious resistance to cannabis reform**

It is worth noting that many religions and sects of Christianity prohibit not just cannabis use, but other illicit drugs, alcohol, tobacco and the like, so the contributions they made before the CARICOM Commission were often framed in the context of the institutional ability of states to prohibit all forms of *substance abuse* from a public health perspective, a goal, which however laudable, is clearly impossible to enforce.

### **Scientific and medical context**

The scientific evidence supporting the medical benefits of cannabis highlights the defective classification of cannabis as a substance without medicinal or other value. This defect strains the credibility of the law itself and law enforcement efforts and should be rectified.

The scientific and medical components of the cannabis issue are vital to the question of law reform in two main ways:

- the value of cannabis for medical purposes
- up-to-date scientific evidence on the physiological impact of cannabis.

### **Evidence of positive medicinal benefits now indisputable**

One of the most important reasons for the increased interest in cannabis is because of its use medicinally. There is a long historical and cultural association with the therapeutic use of cannabis in the Caribbean. Early scientific interest in the substance dates to the early 1980s, with one of the earliest cannabis medical patented products, a treatment for glaucoma developed by a researcher at Mona Campus, UWI.

The issues relating to the medicinal properties of cannabis and to the physiological impact of the substance are not without controversy. Nonetheless, it is evident that many countries have already changed their policy in regards to medical cannabis in the light of scientific data.

Saint Lucians who travel for medical treatment in the US or Canada witness physicians who are legally allowed to prescribe cannabis. These people label themselves “medical refugees”. It is difficult to maintain the position in the law that cannabis is a ‘dangerous drug’ with no medicinal value when people can access care elsewhere and find relief from it.

### **Increasing scientific support for medical cannabis**

There is now overwhelming evidence on the medicinal properties of cannabis. The science is emerging as more relaxed legal regimes allow for further scientific inquiries. Discoveries of beneficial medical effects are occurring at a rapid pace challenging many of the negative assertions associated with cannabis.

The economic value of medical cannabis is not only in relation to potential exports, but also for use in the domestic sector. Moreover, in a region where pharmaceuticals are costly, often unavailable and foreign exchange in short supply, being able to produce locally a substance that science has shown to have important, varied medicinal properties, is important when factoring in the economics of treating NCDs.

Understanding accurately the scientific and in particular, the medical facts about cannabis, is important for law-making and law reform, since cannabis is currently classified under law and international treaties as a “dangerous drug”. This classification describes a substance that has no medicinal or other value. Given that the evidence illustrates that this is an inaccurate description of the plant and its derivative products, logically, its classification is now questionable and should be reviewed.[xxx]

### **[The authority to reschedule cannabis in Saint Lucia](#)**

Making cannabis available for medicinal and research purposes in Saint Lucia may be remedied simply by the rescheduling of cannabis in the DRUGS (PREVENTION OF MISUSE) ACT, Revised Edition 2008 from Schedule 2 Part 1, Class A, to Part III, Class C .

The Minister of Health under Section 49, may by an order made by statutory instrument, amend the Schedules and move cannabis from a Schedule 1 to a Schedule 3 and thus allowing for its use as a medicine.

### **Cannabis strains and cannabinoids and the endocannabinoid system**

The challenge of using herbal cannabis as medicine varies from type of cannabis strain used, the level of the various cannabinoids, to issues of dosage and purity of grade.

There are three main species of the cannabis plant: *Cannabis sativa*, *Cannabis indica* and *Cannabis ruderalis*. The plant has over 700 compounds of which more than 100 are cannabinoids which interact with the endocannabinoid system (ECS). The ECS is a biological system composed of endocannabinoids, neurotransmitters produced by the brain that bind to cannabinoid receptors found throughout the mammalian central nervous system including the brain, the peripheral nervous system and the immune system. The endocannabinoid system is involved in regulating a variety of physiological and cognitive processes including fertility, pregnancy, during pre- and postnatal development, appetite, pain-sensation, mood, and memory, and in mediating the pharmacological effects of cannabis. These cannabinoids act on the endocannabinoid system which plays an important role in the body's function.

There is widespread acceptance in the region that cannabis has established medical uses but there is need for clarity as to precisely what, in what dosages, and what types of cannabis plants for what illness. The general public has embraced cannabis as medicine and older persons who never smoked cannabis are seeking out coconut oil infused with cannabis endocannabinoids to apply topically or ingest. Regulation will set standards and a testing laboratory will be required to test local cannabis produced for medical use locally.

### **Regulations for controlling “strength”**

Strains of cannabis with very high THC levels that have been developed as a result of the prohibition that makes no distinction between various strengths. Regulation will allow Government to prohibit these substances for purposes of general public consumption. By controlling the balance of endocannabinoid in strains of cannabis will allow growers to work within the framework of what is considered safe. It is important for the Government to play a role in developing safety messages of the clear risks with such strains. The only exceptions would be where such new strains of cannabis are developed and utilised for specific medical issues.

### **Preparatory work commenced on setting cannabis “standards”**

The Saint Lucia National Standards Bureau has started exploring standards for the cannabis industry and has invited the Cannabis Movement to participate in expert discussions on the establishment of standards.

## New laws permitting medical cannabis

Several countries now have laws permitting cannabis use for medicinal purposes, thereby removing prohibitions for this purpose. A non-exhaustive list includes Canada, Chile, Colombia, Costa Rica, Spain, Germany, Greece, Israel, Italy, The Netherlands, Poland, Peru, and Uruguay, Jamaica, Belize, Puerto Rico and Antigua and Barbuda. Australia passed legislation to allow the medicinal use of Cannabis in some states. In the United States 29 States, plus Washington DC have approved cannabis for medicine.

In Jamaica, for example, the Dangerous Drug (Amendment) Act 2015 made provisions for scientific and medicinal use but did not allow for the liberal cultivation and transport of the drug. Jamaica made provision for licences and permits to allow easier access to cannabis for scientific and medicinal purposes.

### **Human Rights and Health**

There is already case law in the US, Canada and most recently Mexico, that hold that an individual has the right to cultivate and use cannabis for personal health reasons in the privacy of their home.[xxxii] Such precedents are persuasive in the region and the continued prohibition on home-grown plants, even small amounts, may well be deemed unconstitutional as the right to health becomes more entrenched.

The lobbying for access to medical cannabis by a growing number of citizens, creates an important constitutional question related to the right to privacy and the relative inability of law enforcement to monitor small amounts of home-grown herbs.

## Economic basis for cannabis law reform

The economic arguments for law reform have been foremost in most people's mind. There are great expectations that the removal of prohibition from the legal regime can liberate important economic potential for cannabis to the region, given its natural home here.

The cannabis industry is considered to be a multibillion-dollar one that if legitimized, could generate huge profits from tax revenues for nations, which could fund sensitization and prevention initiatives.

Jamaica, which liberalised cannabis in 2015, has already begun to reap economic benefits.[1] Apart from this, legalization would provide opportunities for persons engaged in the cannabis business to enter into lawful employment and entrepreneurship as well as create prospects for additional jobs in the area of cannabis commerce.

The economic dimensions of any change in the current criminal framework, is complex. Regulatory economic policy will require a multi-faceted, all embracing approach. It is recommended that existing structures and frameworks be used as models rather than creating new.

## **Current cost of enforcement**

The question of economic benefit must also take into account the current negative economic costs resulting from prohibition. These include the high enforcement costs and depleting resources necessary to investigate more serious crime. The cost of incarceration in Bordelais is estimated to cost the GoSL \$2000. XCD per inmate per month. A considerable savings will be recognised if cannabis incarcerations are ended. Additionally ending incarceration for any non-violent cannabis crime regardless of quantity will reduce prison overcrowding and allow for a more concentrated rehabilitation effort for other incarcerated individuals.

## **Cannabis and Environmental Considerations**

Environmental concerns have not appeared to attract the same attention as other socio-economic topics in discussions on cannabis related policy changes. Yet, the impact of law reform on the environment, which can usher in a new land-based industry, is an important area for consideration that environmentalists and conservationists have been investigating. The current method of addressing cannabis cultivation is to “slash and burn” or spray the illegal crops with carcinogenic chemical defoliant. Both of these result in severe harm to the environment and communities. The exposure to defoliant chemicals, smoke from eradication fires, erosion from removing the roots that hold the soil, as well as flooding. Legal cultivation will eliminate hidden farms in the rainforest and on watershed lands.

## **Human Rights Issues**

The criminalization of the personal use of a natural substance which grows freely and existed for several thousands of years, whether for medicinal or personal use, may itself introduce considerations of human rights, but when coupled with the uneven and inequitable enforcement of the law by targeting the disadvantaged, results in a gross human rights violations.

## **Appropriate Personal Amounts in Law Reform**

The Cannabis Movement of Saint Lucia recommends that initially the existing legislation should be amended to state that possession of 30 grams or less of cannabis would not be an offence, noting that this would “allow for personal use and remove what has become a nuisance for enforcement.” This is the same amount as in Antigua and Barbuda, but lower than the 56 grams now allowed in Jamaica.

## **Public Smoking**

Cannabis legal reform should prohibit the smoking of cannabis in public spaces. This should be combined with a public smoking ban on tobacco smoking. Exceptions would

be a regulatory regime that permits ‘regulated public smoking spaces’, tobacco smoking areas, cannabis ‘coffee shops’ of The Netherlands or the cannabis cooperatives of Spain.

All proposed regulatory regimes must allow for cannabis use in private households.

The incongruity of the harsh laws and inaccurate classification of cannabis is exacerbated by the fact that other substances are not similarly treated under the law, leading to claims of inherent unfairness and injustice in the legal system. Both alcohol and tobacco are deemed more harmful than cannabis, causing millions of deaths world wide annually but are legal.

### **Ancillary Laws Supporting Illegality – The Financial Collateral Problem**

The issue of law reform for cannabis goes beyond questions of legal liability for persons under the legislative prohibition of dangerous drugs and the regulation of cannabis for medicinal purposes.

The illegal status accorded to cannabis has additional implications in other areas of law. These laws are relevant to the treatment of cannabis as an illegal substance and support the prohibitionist regime.

Consequently, if cannabis remains, even theoretically, an illegal substance, important matters that the legal regime will need to address include the status and facilitation of hemp, the need for patent laws, change to customs laws, the regulation of pharmacies and the amendment to anti-money laundering and proceeds of crime.

With the reclassification of cannabis as a legal substance will necessitate amendments to laws relating to customs and excise and pharmacies/ pharmaceuticals, since currently cannabis is listed as a substance without medicinal value.

### **Urgent Need for Patent Law in Law Reform Process**

Apart from considerations of legal liability for users and traders, any law reform on cannabis must, in the future, consider the issue of patenting. This is in view of the huge interest in cannabis as a medicinal substance and also information that varieties of cannabis grown in the region are of superior, sometimes unique quality, even in terms of recreational use.

There is a view that much of the interest by large foreign companies in the region is for the purpose of acquiring stakes in the seeds and related materials unique to the region, which can, if not protected by patent and other laws, be exploited without adequate benefit.. If patent opportunities are lost, there are likely to be foreign patents of regional substances and products, as is already occurring[xxxiii], with considerable detriment to the potential market value and usage of the region. In view of concerns for patenting, the Jamaican model makes specific provision for seeds, but it is limited. In general, this is an issue that has not often been debated, but one with considerable implications.

## Regional Law Reform Initiatives

Five CARICOM member states have removed prohibition status from cannabis . Jamaica in 2015, then Belize,, St. Vincent, St.Kitts and Nevis, Antigua and Barbuda[xxxiv]. There is a common trajectory in all of the jurisdictions, that is, the decriminalisation for the offence of possession where small amounts of cannabis are involved, although the prescribed amounts vary. In Antigua and Barbuda, for example, the excepted amount is 30 grams, 56 grams in Jamaica and 10 grams in Belize.

These new regimes are self-label as ‘decriminalisation’ models, but are hybrid constructs, incorporating some elements of legalisation and other elements of decriminalisation.

## Legal growing of cannabis

It is now *de jure* legal to have 5 plants in the household in Jamaica and 4 plants in Antigua and Barbuda. The Antigua and Barbuda law now makes provision for the institution of ticketable offences for fines for any current offence under the parent statute, by way of Regulations created by the Minister. This provision makes it possible for all criminal penalties to be removed from the law without the need for a new statute.

## Expunging criminal records for cannabis offences

There must be provision for expunging criminal records for cannabis offences.

An important consideration for Saint Lucia is the status of cannabis in the international arena. This has presented a significant obstacle in effecting change to the legal regime on cannabis given its classification as a dangerous drug or narcotic under international instruments.

Cannabis is currently scheduled in Schedules I and IV of the UN Single Convention on Narcotic Drugs 1961, as amended by the 1972 Protocol (the “Single Convention”), which seeks to limit the possession and use of all narcotic drugs. This scheduling was created based on a report created by the Health Committee of the League of Nations in 1935.

The Expert Committee charged with making recommendations on which drugs should be scheduled under the Conventions has produced 3 expert papers for member states to review in anticipation to WHO recommending to the Commission on Narcotic Drugs that cannabis be rescheduled to acknowledge it’s medical benefits.

Several countries including the USA, Canada, Uruguay, and all countries that have approved medical cannabis have breached the provisions of the Conventions. These instruments can no longer be seen as authoritative, given that international law is based on the consensus of states

The UN Global Commission acknowledged that this consensus “has fractured” and the treaty framework may be seen to be in transition. More and more states are viewing the

core punitive elements of the drug treaties as inflexible, counterproductive and in urgent need of reform. It warned that the drug treaty system risks becoming “even more ineffectual and redundant, [and]. . .the integrity of that very system is not served in the long run by dogmatic adherence to an outdated and dysfunctional normative framework.[xxxv]

### **Challenging the International Regime on Human Rights Grounds**

The Conventions contain provisos that allow a state to proceed differently on constitutional grounds, invoking considerations of human rights. *This is an established principle in international law which places treaty requirements as subordinate to fundamental human rights which are inalienable.* As explained above, several human rights considerations are brought into play in the issue concerning cannabis as an unlawful substance.

The SDGs also emphasise human rights as the centre of development, goals which Saint Lucia has endorsed. Important human rights principles in the cannabis paradigm include the right to privacy or private life, equality before the law, particularly in sentencing policy, non-discrimination, religious freedom, liberty, the right to health and procedural rights relating to proportionality and due process. All of these provide grounds to avoid treaty obligations which violate them.

### **Removing Illegal Status Removes Legal Issues on Proceeds of Crime**

Quite apart from identifying loopholes under the Convention which would permit a more liberal attitude toward cannabis, it is evident that the international stance in favour of criminalisation can lead to sanctions, either direct, or indirect, if a country acts unilaterally. The problems relating to transactions with banks and financial institutions are exacerbated here, given the fact that banking in the region is largely carried on by international correspondent banks. Already, there has been negative fall out in the banking and financial sector, blacklisting in relation to correspondent banks, for those who wish to use the traditional financial sector for their profits from cannabis, despite the double standards in a global environment where both Canada and the US have legalised cannabis/ cannabis.

The underlying threats of money laundering and proceeds of crime offences are significant even within the domestic sphere. Considering the issue in the international arena compounds it. It is evident that the only way to avoid such a categorisation of the profits of any business involving cannabis, whether for medicinal or recreational purposes, is to remove entirely the illegal status from the plant.

### **Appendix 1 Suggested Amendments to the “Drugs” Act #22 of 2008**



Amending the Act would be the initial step toward a fully regulated market. This is an interim message to remove the burden of criminalization while consultations take place on legislating for a fully legal and regulated market.

These amendments will decriminalize small amounts of cannabis for personal use and remove a large portion of the population from potential criminal justice contact. These amendments will also make it possible for:

- The formation of an industrial hemp industry (both agricultural and value added manufacturing of fiber and cosmetics)
- Allowing the use of medical cannabis by license.

## CHAPTER 3.02 DRUGS (PREVENTION OF MISUSE) ACT (Act 22 of 1988, 8 of 1993 and 5 of 2004)

### Amendments needed

#### 2. INTERPRETATION

(1) In this Act, except where the context otherwise requires—

**Insert**

“hemp”

any plant of the genus cannabis or any part of any such plant with a THC content of less than 5% For the purpose of this Act cannabis of less than 5% Tetrahydrocannabinol is classified as “hemp” and exempt from these regulations

*Commentary: This will allow the formation of an industrial hemp movement. Impact on illicit use will be nil as few people would use low THC cannabis as an euphoriant as is evident by the abandonment of “fat leaf”, low THC cannabis leaf in the field.*

#### 8. RESTRICTION OF POSSESSION OF CONTROLLED DRUGS

(1) Subject to any regulations under section 10, it shall not be lawful for a person to have a controlled drug in his or her possession.

**Insert**

(a) for the purpose of this Act, possession of less than 30 grams or less of cannabis shall not be an offense under this act.

*Commentary: This will allow for personal use and remove what has become a nuisance for enforcement.*

#### 8. RESTRICTION OF POSSESSION OF CONTROLLED DRUGS

Assumption of trafficking

**Delete**

(4)(e) 15 grammes of cannabis or cannabis resin,

**Insert**

8.(4)(e) 500 grams of cannabis or cannabis resin,

*Commentary: If the assumption of trafficking clause for cannabis is to remain it will need to have an amount detailed. The Cannabis coalition recommends that 8.(4)(e) be deleted and not amended. If amended the Cannabis coalition suggests 500 grams.*

#### 9. RESTRICTION OF CULTIVATION OF CANNABIS PLANT

- (1) Subject to any regulations under section 10, it shall not be lawful for a person to cultivate **any** plant of the genus Cannabis.
- (2) Subject to section 40, it is an offence to cultivate such plant in contravention of subsection (1).

#### *Delete*

**'any'** from 9.(1)

#### *Insert*

more than 25 plants.

#### *To read:*

9.(1) Subject to any regulations under section 10, it shall not be lawful for a person to cultivate more than 25 plants of the genus Cannabis.

*Commentary: The purpose for allowing personal growing will remove cannabis users from the illicit market place and allow for personal cultivation.*

#### 11. LIABILITY OF OCCUPIERS

- (c) preparing **cannabis, cannabis resin or** opium for smoking; or
- (d) smoking **cannabis, cannabis resin or** prepared opium.

Delete **cannabis, cannabis resin or** from 11.c

Delete **cannabis, cannabis resin or** from 11.d

*Commentary: Personal use clause of cannabis negates this sections long as the limited are adhered to.*

#### SCHEDULE 2 (Section 4)

#### CONTROLLED DRUGS

#### PART I CLASS A DRUGS (pg 41)

#### *Delete*

**Cannabinol, except where contained in cannabis or cannabis resin**

**Cannabinol derivatives Cannabis Cannabis resin from PART I CLASS A DRUGS**

#### PART II CLASS B DRUGS (pg 44)

#### *Delete*

**Cannabis and cannabis resin PART II CLASS B DRUGS**

#### PART III CLASS C DRUGS (pg 45)

#### *Insert*

Cannabis, cannabis resin, cannabis derivatives, cannabiniol, or cannabiniol derivatives

*The purpose of this change in scheduling is to acknowledge the medicinal value of cannabis and allow the Minister to consider the granting of licenses for medical cannabis.*

## Appendix 2 CARICOM Member States who's "Drugs Acts" that allow cannabis use

- Dangerous Drugs (Amendment) Act 2015 of Jamaica.
- Misuse of Drugs (Amendment) Act 2017 of Belize.
- Antigua and Barbuda, it is the Misuse of Drugs (Amendment) Act, 2018, which amends the parent statute, the Misuse of Drugs Act, Cap. 283.
- Cayman Islands and Bermuda, Associate Members of CARICOM, also amended their laws recently to decriminalise (for medicinal purposes).

## Appendix 3 PEMANDU Lab Output on Cannabis Reform

The GoSL identified three Game Changers to be addressed by the PEMANDU lead "Agriculture KRA" lab:

- Reducing food imports,
- Increase crop diversification,
- Enforcement of Sanitary and Phytosanitary Legislation.

Under the crop diversification heading, the focus was on identifying crops with high yields/value. One such crop identified by the GoSL was cannabis. The attached Output from that Lab contains the information on:

- Cannabis Reform Charters
- Regulatory Framework
- Social
- Health

- Jamaica Case Study
- Cost Benefit Analysis (Barbados, Bahamas, Grenada)
- Reclassification of Hemp

## **Appendix 4 THE REGULATION OF CANNABIS IN SAINT LUCIA**

### **Background**

Transiting from a illicit cannabis market to a regulated legal one requires the cooperation of thousands of individuals who have developed a strong distrust for law enforcement apparatus due to decades of being characterised as criminals.

Hundreds of farmers have demonstrated over the years the high technical knowledge needed to grow high quality cannabis that is consumed in the local illicit market.

Transiting these individuals, who for decades have been criminalised and brutalised, into the illicit market with as little disruption as possible is the key to capitalising on the economic and social benefits of a legal cannabis market.

### **Affirmative Action**

- Preference for licensing will be shown to individuals already in the cannabis business
- Training on vending cannabis, including licensed street vendors to serve the tourist market

### **Reparatory considerations**

In negotiating the contents of the final Cannabis Bill affirmative action to ensure that previously criminalised individuals and communities, in particular but not limited to Rastafari, be given priority in benefiting from this Act including an exemption from fees associated with cannabis for 20 years.

### **National capacity to fulfil demand for cannabis locally and for export**

Using published OAS school survey data, it is estimated that there are 30,000 regular cannabis users in Saint Lucia. Despite the extent of police lead interdictions and seizures, there has been a consistent availability of product available for sale. It is clear that the experience of our farmers allow for our local market to be adequately services by local

farmers. Regulation will allow for increased production to meet the demand for processed oils for export.

### **Proposed Regulatory Framework**

The route proposed is a public / private partnership between the Government of Saint Lucia as represented by the Saint Lucia Cannabis Licensing Authority (SLCLA) a statutory body formed by Act of Parliament and the Saint Lucia National Cannabis Cooperative, (SLNCC), licensed by the Department of Cooperatives.

The SLCLA would be comprised of 4 government representatives from Health, Agriculture, Trade, Equity and 5 Co-op stakeholder representatives. The Chair would be elected by secret ballot of the members and have the deciding vote in a tie.

The SLNCC will initially be comprised existing growers, wholesalers and retailers and consumers and will licensed to operate by the GoSL Department of Cooperatives.

### **Revenue Stamps**

While VAT captures some of the estimated \$150,000 EC dollars of cannabis retail revenues that move through the system daily, tax collection from revenue streams could be enhanced if revenues from the cannabis market were subjected licensing fees and excise tax.

The use of government issued revenue stamps to collect tax and fees associated with the cannabis licensing process will feed directly into the Treasury without the need for new revenue collection points. Cannabis revenue stamps will sold at existing GoSL Post Offices.

Revenue stamps of various denominations may be printed with a “cannabis” motif, making them collectable to our cannabis using tourists who will purchase stamps for collection, providing revenue to GoSL without requiring the provision of any service.

### **Licenses**

In general all applications for licensing will be made to and issued by the SLNLA on the approval of the SLNCC. All licensing applications must be accompanied by proof of membership in the SLNCC. All fees and taxes will be paid with cannabis revenue stamps.

### **Activities to be regulated**

The following activities involving cannabis are to be regulated  
Cultivation

- Herbal Cannabis for local consumption
- Cannabis cultivated for medicine
- Hemp

Importation

- Seeds
- Plants
- Medicinal cannabinoids

#### Exportation

- Seeds
- Plants
- Medicinal cannabinoids

#### Transportation

#### Processing

- Post harvest quality control

#### Sales

- Wholesale
- Retail
- Bulk
- Regular
- Commercial ventures
- Licensing of derivatives
- Licensing of public establishments cafés\ lounges where cannabis use is permitted
- Regulation of zones where only licensed brokers may retail, tourist zones
- Licensing of individuals authorised to sell to tourists and guests

#### **Cultivation licences**

The licence will:

- Authorise importation of seeds.
- Authorise the location of cultivation
- Authorise the type of cannabis to be cultivated.
- Authorise distribution of cured cannabis to licensed sellers and licensed manufacturers/processors
- Authorise possession of type and quantity of cannabis for the purpose of carrying out licensed activities
- Authorise all activities related to cannabis production.

## Vendors Licence

- Authorize to purchase cannabis
- Authorize to vend cannabis.
- Authorize to transport cannabis.
- Authorize to store cannabis in registered accommodation.

## Licensed to process cannabis

The license will:

- Authorise specified premises to be used for processing cannabis;
- Authorise licence holder to process cannabis in a specified way to produce a specified product
- Authorise sale of products to pharmacies, other establishments authorised under the licence
- Authorise the possession of a specified amount of cannabis on the premises.
- Authorise by- products to be exported – this is prevue of Ministry of Trade
- HACCP registered- if not have GMP [good manufacturing practice] as is assessed by public health and bureau of standards
- Require packaging and labeling standards
- Penalize non-compliance with loss of licence in addition to fines and penalties

## **Existing pharmacy licences**

The licence will:

Authorise the sale in specified quantities for medicinal purposes by prescription

These licenses are exempt from the general requirement that all cannabis liscnses holders be a member of the SLNCC. The Ministry of Health will authorise the retail of cannabis to the public through the use of existing pharmacy licences.

## **License to retail and or consume cannabis and cannabis products on premises**

The licence for the use of a facility to retail and allow the consumption of cannabis on the premises

- Sale to minor prohibited
- Record of sales to be kept
- Requirement to have available information on harmful side effects;
- Require packaging and labelling standards
- Requirements as to location and hours and days of operation
- Prohibit dealing in cannabis otherwise than for the carrying out activities authorised under the licence.

## **License to conduct research**

The SLCLA upon the recommendation of the Ministry of Health will license facilities\researchers to conduct research with the cannabis plant in accordance with requirements to be outlined. Any research involving human subjects must obtain ethical review from an authorised review body.

### **License to conduct testing**

The SLCLA upon the recommendation of the Ministry of Health will license specific entities and or qualified individuals, along with registered and suitable premises, the use thereof being to conduct necessary testing of the cannabis plant and cannabis products for all approved uses in accordance with requirements under new and amended legislation.

### **Certification of inspectors**

#### **Cultivation**

Officers of the Ministry of Agriculture will be certified and equipped to carry out tests to determine the quality of cultivated product and appropriateness of cultivation method. They will also monitor the amount of cannabis cultivated and distributed to licensed processing premises and pharmacies.

#### **Processing and Trade**

Officers of the Ministry of Trade will be certified and equipped to carry out inspections of licensed processing premises to ensure compliance with standards and monitor amount of cannabis acquired and used.

Inspectors of the Ministry of Health will be trained and equipped to carry out inspections of the storage of cannabis and cannabis products by pharmacies.

The Ministry of Health will also monitor the amount of cannabis imported, purchased locally and sold by pharmacies.

### **Existing Offences**

Amend existing Act so that the following are not prohibited:  
Possession of 56 grammes or less of herbal cannabis

Prohibit the following:

All smoking in public.

All smoking in public unless in designated licensed areas.

Implement the World Health Organization Framework Convention on Tobacco Control (WHO FCTC)

All smoking near a minor\ school\ hospital\ health centre

Sale of cannabis or tobacco to a minor

### **Civil Penalties for non compliance:**

- Loss of licence
- Fines



All offences carry civil penalties / ticketable offences:

### **Possession and use of cannabis where no license is required**

- Personal use up to 56 grams / 2 ounces
- Sacramental use in congregation – no limit on quantity
- Medical cannabis purchased with a physician's prescription
- Hemp fibre for production of fabric. Note: the cultivation of hemp will be zoned to ensure no cross pollination with other types of cannabis. The processing of hemp for medical use will fall under the requirements outlined for medical cannabis.

---

[1] Jamaica's first medical cannabis biotechnology company, Medicanja Limited, launched its first six cannabis -based products for the treatment of pains, swellings and strains. The products were initially available in November in Jamaican pharmacies and the company is also seeking international markets.  
<https://www.caribbeanintelligence.com/content/ci-shorts-slow-growth-legalised-ganja> 'Ci Shorts: The Slow Growth of Legalised Ganja' (2018), Update – Report, Caribbean Intelligence. Accessed May 30, 2018.

---

[i] See Cannabis Policy Framework, Centre for Addiction and Mental Health (CAMH), Canada, 2016.

[ii] Cannabis Commission Report 2018 Para

[iii] 'Puff on a Spliff', SunDominica, September 3, 2017,

[iv] Ibid.

[v] Information from pollster, Peter Wickham, CADRES, Public Opinion on Marijuana Decriminalisation in St Lucia, Poll conducted September 2017, published October, 2017.

[vi] <https://antiguanewsroom.com/news/featured/poll-shows-majority-support-for-marijuana/> 'Polls Show majority Support for marijuana', Antigua Newsroom, May 17, 2017.

[vii] Barbadians more open to decriminalization of marijuana' May 20, 2016;

<http://www.caribbean360.com/news/barbadians-open-decriminalization-marijuana> .

<http://www.nationnews.com/nationnews/news/98523/-yes-ganja>. 'Yes to ganja' Nation News, June 9, 2016,

[viii] 'War on Drugs, REPORT OF THE GLOBAL COMMISSION ON DRUG POLICY' JUNE 2011

[ix] “The OAS Drug Report, . . . has generated a very active and serious discussion of possible changes in cannabis laws throughout the hemisphere, from Chile to Jamaica. . . the Report asserted that . . . decisions will need to be taken on assessing signals and trends that lean toward the decriminalization or legalization of the production, sale, and use of marijuana . . . This new debate has shifted in tone from one principally about morality to one that recognizes a broad scope of gains and losses . . . Some jurisdictions are considering a legalized system in which the state retains control of all or much of the system of production and distribution. Other jurisdictions have given more freedom to private entrepreneurs to serve the market . . . the current debate surrounding cannabis policies in the Western Hemisphere is at the forefront of a reinvigorated global discussion about drug control.” OAS Drug Report, 16 Months of Debates and Consensus - “Toward a Hemispheric Drug Policy for the Twenty-First Century”. 2014. OAS, Washington.

[x] Drug Policy and the Sustainable Development Goals -Why drug policy reform is essential to achieving the Sustainable Development Goals – Health, Poverty, Action, UNODC, 2015,

[xi] <http://www.caricom.org/expframes2.htm>

[xii]<https://www.royalqueenseeds.com/blog-a-brief-history-of-cannabis-use-in-world-religions-n624>

[xiii] Ibid

[xiv] <https://www.leafly.com/news/cannabis-101/cannabis-a-gift-from-the-ancient-gods>

[xv] Aldrich, (1977) cited in Ayenigbara (2012)

[xvi] 48<https://www.royalqueenseeds.com/blog-a-brief-history-of-cannabis-use-in-world-religions>

[xvii] Abel, (1980).

[xviii] Hamid (2002)

[xix] <http://www.royalqueenseeds.com/blog-a-brief-history-of-cannabis-use-in-world-religions-n624> 51

[xx] Ibid

[xxi] Burgess (2007)

[xxii] Civil Suit No. 191 of 1996, dec’d September 2001, high Court of Antigua and Barbuda.

[xxiii] Bandopadhyay (2015)

[xxiv] Ibid.

[xxv] Burgess (2007)

[xxvi] Ibid.

[xxvii] Ibid.

[xxviii] Ibid

[xxix] De Vos, Pierre (2001). ‘Freedom of religion v drug traffic control: The Rastafarian, the law, society and the right to smoke the "holy weed”’ Law Democracy & Development.

[xxx] Dangerous Drugs (Amendment)Act 2015.

[xxxi] The dangerous drug status of marijuana itself hindered researchers from doing the necessary scientific research to prove that it should not be so classified and in fact, educate our public. Since the 1960’s The UWI has been conducting experimental studies on marijuana, but at great costs and difficulty.

[xxxii] Allard et al v. Canada [2016] F.C.J. No. 195[2016] 3 F.C.R. 303, 394 D.L.R. (4th) 694, Federal Court, Vancouver, British Columbia, discussed below.

[xxxiii] See, e.g. the controversial Monsanto patent for “specialty cannabis”:  
[http://www.pbs.org/wgbh/nova/next/evolution/patenting-pot/Carrie Arnold](http://www.pbs.org/wgbh/nova/next/evolution/patenting-pot/Carrie%20Arnold), ‘The Rise of Marijuana TM (Patent Pending) G4.

[xxxiv] Dangerous Drugs (Amendment) Act 2015 of Jamaica.

Misuse of Drugs (Amendment) Act 2017 of Belize.

Antigua and Barbuda, it is the Misuse of Drugs (Amendment) Act, 2018, which amends the parent statute, the Misuse of Drugs Act, Cap. 283.

[xxxv] ‘War on Drugs, REPORT OF THE GLOBAL COMMISSION ON DRUG POLICY’ JUNE 2011