



## Policy Analysis

## The Dangerous Drugs Act Amendment in Jamaica: Reviewing goals, implementation, and challenges

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## ABSTRACT

**Background:** After decades of internal discussion, the Government of Jamaica recently amended its laws to create a regulated and licensed cannabis industry for medical and scientific purposes. The new law also decriminalizes personal possession and use of cannabis; allows cannabis to be used by individuals for religious, medical, scientific and therapeutic purposes; and permits home cultivation of up to five plants.

**Methods:** We first describe the statutory changes under the Dangerous Drugs (Amendment) Act of 2015 and compare it with other jurisdictions. We provide an analytical framework for understanding how the DDA Amendment affects key populations and achieves its stated goals, drawing on publicly available information and unstructured interviews with non-governmental stakeholders in Jamaica.

**Results:** The Amendment's primary goals are to deliver economic impact and reduce criminal justice costs. A relaxed policy of enforcement toward possession and use seems to have occurred even before the law's passage; after the law's passage, enforcement remains limited. To access medical cannabis under the DDA residents must receive authorization from a certified health professional in Jamaica; tourists may self-declare their medical need; and Rastafarians may grow and exchange non-commercially for religious purposes.

**Conclusion:** Internally, many see "ganja" as an industry sorely needed to drive economic growth in Jamaica. Indeed, the potential impacts could be large, especially if Jamaica draws additional tourism or creates a viable export industry. A growing cannabis-related tourism industry seems more realistic. We maintain that policymakers and observers should proceed in an orderly fashion, continuing to identify and resolve remaining uncertainties, initiate new types of data collection, and make decisions based on realistic assessments of potentials for economic impact.

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## Background

In April 2015, the Government of Jamaica amended its drug law, the Dangerous Drugs Act (DDA), to decriminalize cannabis possession, legalize home cultivation for medicinal and sacramental use, and create a new, licensed industry for medical cannabis and hemp.

With the Amendment to the DDA ("The Amendment"), Jamaica becomes the first country in the Western hemisphere to allow the use of cannabis for sacramental purposes, and one of few

developing countries working to establish a regulated industry for medical cannabis (joining Uruguay, Chile, and Colombia).

The Amendment is Jamaica's first major reform to its cannabis laws, which for nearly a century have prohibited the unauthorized production, distribution, and use of cannabis. Convictions for violating these prohibitions sometimes carried severe penalties. According to earlier statutes, simple possession could warrant between three and five years in prison (Misuse of Drugs Act, amended in 1987 Section 7C). A 2001 report by the National Commission on Ganja recommended decriminalization to then-Prime Minister P.J. Patterson (Chevannes et al., 2001), yet no serious efforts were made to amend the law. In 2011, police enforced cannabis laws vigorously though Jamaica considered transferring minor possession cases to misdemeanour Petty Sessions Courts (Campbell, 2011). In 2014 per capita arrests for

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cannabis possession in Jamaica were more than double the United States' (500 versus 200 per 100,000).<sup>1</sup>

During the April 2016 United Nations General Assembly (UNGASS) in New York, the Jamaican delegation called upon the UN to review international cannabis control policy and work toward rescheduling cannabis, stating that "the classification of cannabis under the Single Convention is an anomaly, and that the medical value of a substance must be determined by science and evidence-based analysis, above other considerations" (Jamaica Observer, 2016). This international charge, spearheaded by Jamaica and a handful of like-minded countries, warrants attention from policymakers and researchers eager to study the developing regulatory reforms taking shape on the ground. This paper provides a detailed summary and analysis of the regulations, alongside early assessments of the prospects and challenges facing of regulating medical cannabis in Jamaica.

Though the Amendment came into effect in April 2015, the final regulations that will govern the medical cannabis industry are still under development. The regulatory authority created by the law, the Cannabis Licensing Authority (CLA), has so far only promulgated interim regulations. In May 2016, in the interest of expediency, the CLA started accepting license applications. Details discussed herein are early and are subject to change as Jamaica continues to adapt its regulations to the marketplace.

#### *Goals of the DDA Amendment*

The DDA Amendment could have broad impacts on outcomes of public interest in Jamaica, including collecting tax revenues and reducing corruption and violence associated with the illicit cannabis market; on the other hand, the Amendment could lead to increases in problematic cannabis use and its related harms. The underlying aim of the Amendment and its accompanying regulations is to maximize gains and minimize losses under a market-oriented approach to regulating medical cannabis. In pursuing those objectives, government officials have repeatedly emphasized that regulations would aspire to be "standards-led and market-driven" (Tingling, 2015; Jamaica Observer, 2015a; Jamaica Gleaner, 2015).

Popular attention regarding the law has focused on two areas: (1) economic impacts from developing export industries and/or tourism and (2) civil liberties and social justice outcomes, by way of reducing the number of arrests and convictions for cannabis possession and use, especially given the disproportionate impact of those policies on Rastafarians.

The focus on potential economic benefits is consistent with the placement of the CLA under the Ministry of Industry, Investment, and Commerce (MIIC), which specializes in developing opportunities for trade and local industry. In a speech to the Parliament in support of the bill in on February 24, 2015, then-MIIC Minister Anthony Hylton argued for a long list of potential economic benefits, including diversifying the economic base, increasing resilience to economic cycles and external shocks, increasing foreign exchange earnings, creating employment opportunities from agriculture to manufacturing, and "improving the wellbeing of all persons involved, particularly the youth population" (Hylton, 2015). Expectations are especially high for the export sector, despite the lack of precedent for a large international trade in

cannabis or derived products (with the partial exception of hemp exports) (Serju, 2015).

The Ministry of Justice has advertised the effects of the Amendment on policing and criminal justice outcomes. Then-Minister of Justice, Mark Golding, advocated for the Amendment in mid-2014, citing the rights of Rastafarian adherents to practice their faith, the overuse of scarce criminal justice resources, and the "significant hardships" faced by those that were convicted for possessing cannabis for personal use, including a criminal record that marred the ability to obtain social services or travel documents (Golding, 2014a). Later that year two individuals died in police custody for possessing a personal amount of cannabis, leading to greater calls for legal reform (Jamaica Observer, 2014; Matthews, 2014).

#### **Methods**

To analyse the Amendment and identify the related prospects and challenges regarding its implementation, we proceed with (1) a review of what is currently known about cannabis access, use, and commerce in Jamaica, (2) an analysis of the Amendment and its accompanying regulations, comparing it with other medical cannabis regimes, and (3) a review of the progress of implementation of the regulatory framework, including which policy components have been decided and which others remain unfixed. Because Jamaica is still in the early stages of regulating its cannabis market, we limit our analysis to the immediate short-term.

In many areas of interest for cannabis policy (such as rates of use, scale of production, and typical prices and potencies) data are incomplete. When possible, we cite publicly available government sources, including Jamaican household and secondary school surveys, and other estimates from the US State Department and other international organizations. We complement those data sources with information gathered from media reports, including press releases and government statements. Further, we incorporate information gathered from personal communication and in-person, unstructured interviews with private individuals, such as community members and illicit growers.

#### **Results**

##### *Illicit supply and trafficking*

Stories from the media and other sources document Jamaica's substantial trade in illicit cannabis exports (Jamaica Observer, 2013; Dyer, 2015a, 2015b; Phillips, 2015). The US State Department reports in 2015 that Jamaica cultivated 15,000 ha of cannabis (Department of State, 2015), although previous research suggests that one cannot take such estimates at face value (Reuter, 1997; Thoumi, 2005).

Jamaica is rumoured to have thousands or tens of thousands of dedicated small-scale cannabis farmers (corroborated by Jones in personal communication). Anecdotes suggest that many farmers have small plots, often on informally-owned land without official title or on public lands, on which a modest amount of cannabis is grown to supplement income (Jones, 2016). Among farmers that earn substantial income from cannabis, plots are thought to typically range from one half to one acre. Production is almost exclusively outdoors. Most production appears to be from small-scale farmers lacking official title to their land or others who cultivate on public lands (Jones, 2016).

Eradication and interdiction efforts have remained in place. Reports of illicit cannabis seizures and arrests are common (The Gleaner, 2016a, 2016c; Jamaica Observer, 2015b). Jamaican police make efforts to eradicate, but production persists because (1) police can be evaded or paid off, (2) even when a crop is eradicated, little effort is given to identifying and prosecuting the farmer, who

<sup>1</sup> Figures for Jamaica are not regularly reported, but the latest statements from Ministry of Justice and Ministry of Security suggest approximately 15,000 arrests in 2014 for cannabis possession for an island of approximately 3 million inhabitants (Golding, 2015). This rate is nearly 3 times higher than in the United States which has a population more than 100 times that of Jamaica and arrested 620,000 in 2014 (FBI, 2014). These figures are even more striking when considering the prevalence rate is probably higher in the US.

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