

OPEN ACCESS	Global Journal of Arts Humanity and Social Sciences			
	ISSN: 2583-2034			
	Abbreviated key title: Glob.J.Arts.Humanit.Soc.Sci			
	Frequency: Monthly			
Published By GSAR Publishers				
Journal Homepage Link: https://gsarpublishers.com/journal-gjahss-home/				
Volume - 4	Issue - 12	Dec 2024	Total pages 1164-1171	

An analysis of the legal challenges facing the implementation of the legal framework in curbing the cultivation of cannabis plants in Tanzania.

By

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Article History

Received: 11- 12- 2024

Accepted: 18- 12- 2024

Published: 20- 12- 2024

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Abstract

The cultivation of cannabis plants has sparked widespread global concern due to its significant social, economic, and environmental impacts. This paper explores the adequacy of the legal and institutional frameworks in Tanzania Mainland, focusing on their effectiveness in curbing the cultivation of cannabis. Cannabis is widely recognized as one of the most prevalent illegal drug crops in the world, with its production, trade, and consumption extending across numerous countries. Despite its global reach, comprehensive data on cannabis cultivation remains scarce. For over a century, the international community has largely adhered to prohibitive policies aimed at controlling the plant's spread, which has contributed to the lack of reliable, consistent data on its production and distribution.

The challenges of researching illegal drug crops, particularly cannabis, are considerable due to the stigma, legal risks, and the clandestine nature of its cultivation. Furthermore, the limited data that does exist about cannabis cultivation is often unreliable, inaccurate, or heavily disputed, making it difficult to form informed, evidence-based policies. This lack of reliable information has long hindered effective governance and regulation, but the situation has grown more pressing in recent years. As global trends shift toward the decriminalization and even legalization of cannabis in certain regions, unintended negative consequences are beginning to surface, particularly in poorer countries where cannabis is cultivated as a cash crop.

These countries, including Tanzania, are now facing the challenge of balancing the international pressure for legal reform with the realities on the ground. The legal and institutional frameworks in these nations may not be fully equipped to address the complexities introduced by such global shifts, which could lead to adverse effects on both the economy and society. As international debates about cannabis continue to evolve, it is crucial for Tanzania to evaluate the effectiveness of its own legal measures and institutional capacity to manage the cultivation of cannabis in a way that protects its citizens and the environment while responding to global trends

1.0 Introduction

Tanzania has been reported cultivating in large amount of cannabis plant, khat plant, coca plant, papaver somniferum or opium poppy and papaver setigerum,¹ The concentration was to be in Mara region where is mostly, used, grown and cultivated. It has been

reported that, small farms cultivating plants like maize and sugarcane typically made 50,000 Tanzania shillings to 100,000 Tanzania shillings per acre in a season. By contrast, an acre of a single harvest of cannabis could yield as much as 500,000 Tanzania shillings a year.² Cannabis cultivation is perhaps the most

¹The Drug Control and Enforcement Act Cap 95 R.E 2019

²<https://sensiseeds.com/en/blog/countries/cannabis-in-tanzania-laws-use-history/> accessed on 2th January 2024



common type of 'drug production' charge dealt with by the courts. Offences range from very small-scale operations whereby a cannabis user has grown plants for their own personal use to large scale operations where industrial equipment and large premises are used and people are employed to tend to the crop.

2.0 An Overview of the Concept of Cultivation of Cannabis Plant

Cannabis is not a true narcotic but is frequently called a mild hallucinogen (mind-altering) drug. It is a preparation made from the flowering tops of the female hemp plant. Cannabis is both a stimulant and depressant depending upon the personality of the user.³ The drug may induce exultation, exhilaration, excitement, hilarity and disjointed ideas. It may distort perception of space, time and motion or cause hallucinations in vivid colors. Cannabis may be chewed, eaten or mixed in a beverage, and more commonly smoked like a cigarette. The use of Cannabis may lead to loss of energy and drive. The individual may be satisfied by very poor circumstances or performance.⁴ The user may sometimes experience loss of libido. Sexual energy and interest diminish. This is associated with decreased production of a hormone that influences sexual energy and interest. Cannabis is an edible preparation made from the leaves of the cannabis plant originating from the Indian subcontinent.⁵ It has been used in food and drink as early as 1000 BC in ancient India.⁶ Cannabis is traditionally distributed during the spring festival of Maha Shivaratri and Holi.⁷ Cannabis is mainly used in bhang shops, which sell the cannabis-infused Indian drinks bhang lassi and bhang thandai.⁸ The 1961 Single Convention on Narcotic Drugs was the first ever international treaty to have included cannabis with other drugs and imposed a blanket ban on their production and supply except for medicinal and research purposes. However, the Single Convention's definition of 'cannabis' does not include the leaves of the cannabis plant, thereby preserving the legality of bhang culture in India.⁹ Regardless, as bhang has served such an important role in

India's culture and spiritual practices, it would be impossible to criminalize cannabis completely in the country. Important festivals such as Holi and Maha Shivratri have traditionally seen people consume bhang during various local festivities. Cultivation of cannabis is government regulated.¹⁰ Cannabis can also be used to brew tea and, particularly when it is sold or consumed for medicinal purposes, is frequently mixed into foods (edibles) such as brownies, cookies, or candies.¹¹

The cannabis or hemp plant originally evolved in Central Asia before people introduced the plant into Africa, Europe and eventually the Americans. Hemp fiber was used to make clothing, paper, sails and rope, and its seeds were used as food. Because it's a fast-growing plant that's easy to cultivate and has many uses, hemp was widely grown throughout colonial America and at Spanish missions in the Southwest. In the early 1600s, the Virginia, Massachusetts and Connecticut colonies required farmers to grow hemp.¹² These early hemp plants had very low levels of tetrahydrocannabinol (THC), the chemical responsible for cannabis plant's mind-altering effects.¹³ There's some evidence that ancient cultures knew about the psychoactive properties of the cannabis plant. They may have cultivated some varieties to produce higher levels of THC for use in religious ceremonies or healing practice. Burned cannabis seeds have been found in the graves of shamans in China and Siberia from as early as 500 BC. In the 1830s, Sir William Brooke O'Shaughnessy, an Irish doctor studying in India, found that cannabis extracts could help lessen stomach pain and vomiting in people suffering from cholera.¹⁴ By the late 1800s, cannabis extracts were sold in pharmacies and doctors' offices throughout Europe and the United States to treat stomach problems and other ailments. Scientists later discovered that THC was the source of cannabis plant's medicinal properties. As the psychoactive compound responsible for cannabis plant's mind-altering effects, THC also interacts with areas of the brain that are able to lessen nausea and promote hunger.¹⁵

³ Thandai in Mumbai: 12 bars in the city to get more bhang for your buck". *GQ India*. 9 March 2020. Archived from the original on 30 October 2020. Retrieved 5th February 2024

⁴ Staelens, Stefanie (10 March 2015). "[The Bhang Lassi Is How Hindus Drink Themselves High for Shiva](#)". *Vice.com*. Archived from the original on 11 August 2017. Retrieved 5th February 2024

⁵ Torkelson, Anthony R. (1996). *The Cross-Name Index to Medicinal Plants, Vol. IV: Plants in Indian medicine*, p. 1674, ISBN 9780849326356, OCLC 34038712. Taylor & Francis. ISBN 9780849326356. Retrieved 5th February 2024

⁶ Staelens, Stefanie (10 March 2015). "[The Bhang Lassi Is How Hindus Drink Themselves High for Shiva](#)". *Vice.com*. Archived from the original on 11 August 2017. Retrieved 5th February 2024

⁷ Staelens, Stefanie (10 March 2015). "[The Bhang Lassi Is How Hindus Drink Themselves High for Shiva](#)". *Vice.com*. Archived from the original on 11 August 2017. Retrieved 5th February 2024

⁸ Thandai in Mumbai: 12 bars in the city to get more bhang for your buck". *GQ India*. 9 March 2020. Archived from the original on 30 October 2020. Retrieved 5th February 2024

⁹ Boister, Neil; Jelsma, Martin (2018). "[Inter se modification of the UN drug control conventions: An exploration of its applicability to legitimise the legal regulation of cannabis markets](#)". *International Community Law Review*. **20**: 472. doi:10.1163/18719732-12341385. hdl:10092/101255. ISSN 1388-9036. S2CID 150161293. Archived from the original on 25 April 2021.

Retrieved 5th February 2024

¹⁰ Boister, Neil; Jelsma, Martin (2018). "[Inter se modification of the UN drug control conventions: An exploration of its applicability to legitimise the legal regulation of cannabis markets](#)". *International Community Law Review*. **20**: 472. doi:10.1163/18719732-12341385. hdl:10092/101255. ISSN 1388-9036. S2CID 150161293. Archived from the original on 25 April 2021. Retrieved 5th February 2024

¹¹ Hartman RL, Brown TL, Milavetz G, et al. Cannabis effects on driving lateral control with and without alcohol. *Drug Alcohol Depend*. 2015; 154:25-37. doi: 10.1016/j.drugalcdep.2015.06.015

¹² Lee D, et al., (2014) Current knowledge on cannabinoids in oral fluid, *Drug Test Analysis*, 6:88-111. <https://doi.org/10.1002/dta.1514> retrieved on 23th December 2023

¹³ Grotenhermen F, et al., (2007) Developing limits for driving under cannabis Addiction;102(12):1910-1917. <https://doi.org/10.1111/j.1360-0443.2007.02009.x> retrieved on 2nd January 2024

¹⁴ Phillips JA, et al., (2015) Marijuana in the Workplace: Guidance for Occupational Health Professions and Employers: Joint Guidance Statement of the American Association of Occupational Health Nurses and the American College of Occupational and Environmental Medicine. *Workplace Health Saf* ;63(4):139-164. <https://doi.org/10.1177%2F2165079915581983> retrieved on 2nd January 2024

¹⁵ Milman G, et al., (2011) Oral fluid and plasma cannabinoid ratios after



In fact, the U.S. Food and Drug Administration has approved two drugs with THC that are prescribed in pill form, Marinol and Syndros, to treat nausea caused by cancer chemotherapy and loss of appetite in AIDs patients. An ancient Greek historian named Herodotus described the Scythians a large group of Iranian nomads in Central Asia-inhaling the smoke from smoldering cannabis seeds and flowers to get high. Hashish (a purified form of cannabis smoked with a pipe) was widely used throughout the Middle East and parts of Asia after about 800 AD.¹⁶ Its rise in popularity corresponded with the spread of Islam in the region.

The Quran forbid the use of alcohol and some other intoxicating substances, but did not specifically prohibit cannabis. In the United States, cannabis plant wasn't widely used for recreational purposes until the early 1900s. Immigrants from Mexico to the United States during the tumultuous years of the Mexican Revolution introduced the recreational practice of smoking cannabis plant to American culture.¹⁷ Massive unemployment and social unrest during the Great Depression stoked resentment of Mexican immigrants and public fear of the "evil weed." As a result, and consistent with the Prohibition era's view of all intoxicants (29) states had outlawed cannabis by 1931.¹⁸

Cannabis cultivation or production is pervasive in Africa.¹⁹ It takes place in all sub-regions, with major seizures being made in North Africa (Morocco and Egypt), West Africa (Nigeria and Ghana), East Africa (Tanzania and Kenya), and Southern Africa (South Africa, Swaziland, Lesotho, Malawi, and Zambia). Over the period 1995–2023, a total of 19 out of 53 African countries reported the cultivation of cannabis on their territory.²⁰ In addition, Member States identified 28 African countries as source countries for the production of cannabis and 35 African countries reported seizing

cannabis plants an indirect indicator for the existence of cannabis production in a country.²¹ United Nations Office on Drugs and Crime (UNODC) estimates global cannabis herb production was 42,000 metric tons in 2015. Africa alone accounted for 10,500 metric tons or 25 per cent of the total.²² Together, the American continent accounted for 46 per cent of global cannabis production-North America represented 23 per cent and South America another 23 per cent. Although the 2015 level of cannabis production in Africa represented a slight decrease over 2004, the long-term trend shows strong increases of production in Africa. The year-on-year decline of cannabis cultivation in Africa has been mainly due to reductions reported from Morocco (though most of this cannabis is used for cannabis resin production).²³ Morocco, the world's largest producer of cannabis resin, possesses the largest documented cannabis cultivation area. With the exception of Morocco, robust estimates of land area under cannabis cultivation are difficult to find in Africa.²⁴ Estimates for cultivation in South Africa generally range between 1,000 and 2,000 hectares. Most plots are small, averaging about 300 square metres,²⁵ and located along the east coast of the country. In the world, Europe is 5% rate in cultivation of plants such as Cannabis, South Asia is 5%, Africa is 25%, South America is 22% and North America is 23% in cultivation of Cannabis.²⁶

Tanzania is one of the largest producers of cannabis in the world. Its dense forests make illegal cultivation easy. Despite this, the country's authorities are on a mission to address this, with an extensive eradication programme in place. The sheer number of cannabis seizures suggests it's a fight they may struggle to win.²⁷ Tanzania's cannabis plant history stretches back thousands of years when Asian traders introduced it via East Africa's coast. The cannabis plant was integrated into Tanzanians' way of life, used for medical purposes, food, and various industrial uses. In the mid-1900s, cannabis use surged as returning World War II soldiers brought consumption habits back to Tanzania from their posts.

around-the clock controlled oral delta-9-tetrahydrocannabinol administration. *Clin Chem* ;57(11):1597-1606.

<https://doi.org/10.1373/clinchem.2011.169490> retrieved on 2nd January 2024

¹⁶ Cone EJ, et al., (1987) Passive inhalation of marijuana smoke: Urinalysis and room air levels of delta-9-tetrahydrocannabinol. *J Anal Toxicol*;11(3):89-96. <https://doi.org/1093/jat/11.3.89> retrieved on 2nd January 2024

¹⁷ Phillips JA, et al., (2015) Marijuana in the Workplace: Guidance for Occupational Health Professions and Employers: Joint Guidance Statement of the American Association of Occupational Health Nurses and the American College of Occupational and Environmental Medicine. *Workplace Health Saf* 2015;63(4):139-164. <https://doi.org/10.1177%2F2165079915581983> retrieved on 2nd January 2024

¹⁸ Milman G., et al., (2011) Oral fluid and plasma cannabinoid ratios after around-the-clock controlled oral delta-9-tetrahydrocannabinol administration. *Clin Chem* 2011;57(11):1597-1606. <https://doi.org/10.1373/clinchem.2011.169490> retrieved on 2nd January 2024

¹⁹ Phillips JA, et al., (2015) Marijuana in the Workplace: Guidance for Occupational Health Professions and Employers: Joint Guidance Statement of the American Association of Occupational Health Nurses and the American College of Occupational and Environmental Medicine. *Workplace Health Saf* ;63(4):139-164. <https://doi.org/10.1177%2F2165079915581983> retrieved on 2nd January 2024

²⁰ Milman G, et al., (2011) Oral fluid and plasma cannabinoid ratios after around-the clock controlled oral delta-9-tetrahydrocannabinol administration. *Clin Chem* ;57(11):1597-1606.

²¹ Lee D, et al., (2014) Current knowledge on cannabinoids in oral fluid, *Drug Test Analysis*, 6:88-111.

<https://doi.org/10.1002/dta.1514> retrieved on 23th December 2023

²² <https://sensiseeds.com/en/blog/countries/cannabis-in-tanzania-laws-use-history/> accessed on 2th January 2024

²³ Milman G, et al., (2011) Oral fluid and plasma cannabinoid ratios after around-the clock controlled oral delta-9-tetrahydrocannabinol administration. *Clin Chem* ;57(11):1597-1606.

²⁴ Phillips JA, et al., (2015) Marijuana in the Workplace: Guidance for Occupational Health Professions and Employers: Joint Guidance Statement of the American Association of Occupational Health Nurses and the American College of Occupational and Environmental Medicine. *Workplace Health Saf* ;63(4):139-164. <https://doi.org/10.1177%2F2165079915581983> retrieved on 2nd January 2024

²⁵ Lee D, et al., (2014) Current knowledge on cannabinoids in oral fluid, *Drug Test Analysis*, 6:88-111.

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²⁶ Cone EJ, et al., (1987) Passive inhalation of marijuana smoke: Urinalysis and room air levels of delta-9-tetrahydrocannabinol. *J Anal Toxicol*;11(3):89-96. <https://doi.org/1093/jat/11.3.89> retrieved on 2nd January 2024

²⁷ Harvey D.J., (2001) Absorption, distribution, and biotransformation of the cannabinoids. In: Nahas G, Sutin KM, eds. *Marijuana and Medicine*. Ottawa: Humana Press, 2001:91-103.



The forests of Tanzania provided ideal climates and plentiful land for cultivation, and cannabis proved a lucrative crop for poor farmers. Because cannabis grows in such large quantities in Tanzania, the country has developed a sizable drug trafficking problem. Local laws began to outlaw cultivation in the 1990s and 2000s, with a long string of seizures confiscating hundreds of thousands of pounds of flower in 10 of Tanzania's 20 regions. In 2010, seized cannabis plants accounted for 4% of global seizures. In 2016, Tanzania's Drug Control and Enforcement Act²⁸ came into effect, which classified Cannabis as a narcotic substance and established punishments for use or cannabis-related activities.

Tanzania like many other members of the United Nations Organization has become a party to the International Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.²⁹ Tanzania before ratifying the 1988 Convention other laws were in force to combat illicit traffic in drugs such as the Dangerous Drugs Ordinance,³⁰ the Cultivation of Notorious Plants (Prohibition) Ordinance,³¹ Economic and Organized Crime Control Act³² and the Drugs and Prevention of Illicit Traffic in Drugs.³³ The Drugs and Prevention of Illicit Traffic in Drugs Act of 1995 established the Drug Control Commission through powers of the president that was responsible for the coordination of the national policy on control of drug use, abuse and trafficking, this commission was under the Anti-Drug Commissioner who was also appointed by the president to enforce the national policy on drugs.³⁴ But the Drugs and Prevention of Illicit Traffic in Drugs Act was repealed for it had a lot of shortcomings that provided loopholes to offenders to operate in.

In the year, 2015 Tanzania, enacted the Drug Control and Enforcement Act 2015 after the repeal of Drugs and Prevention of Illicit Traffic in Drugs Act of 1995.

The Drug Control and Enforcement Act established the Drug Control and Enforcement Authority that was vested with the power to control and coordinate the whole process of controlling the drug problem in the country and trafficking efforts.³⁵ An Act to make robust legislative rules for efficient and effective control of narcotic drugs and psychotropic substances; to provide for the establishment of the Drug Control and Enforcement Authority for the prevention and control of drug trafficking; to repeal the Drugs and Prevention of Illicit Traffic in Drugs Act and to provide for other related matters. Until, the enactment of the Drug control and Enforcement Act 2015, In March 2015, to address perceived flaws in previous anti-drug legislation, Tanzania's Parliament passed the Drug Control and Enforcement Act, which established a Drug

Control and Enforcement Authority and other government agencies to coordinate anti-drug use and trafficking efforts. . Therefore, the Drug Control and Enforcement Act of 2015 was enacted to curb the problem of cultivation of cannabis plants in Tanzania through the provision of severe punishment against the person who does such unlawful act. Although the Drug Control and Enforcement Act was enacted to curb the problem of cultivation of cannabis plant in Tanzania still there is an increase of cultivation of cannabis plant especially in Mara Region particularly in Tarime District. In Tarime, the year 2021, more than 241 tons of cannabis were destroyed in the farm by the Drug authority. In the year 2022, more than 472 ton were destroyed, and the year 2023 more than 762 tons were destroyed due to cultivation of cannabis plants. Police officers have reported several incidences concerning the cultivation of cannabis plants and some measures have been taken such as destruction of the plantation and arresting the suspects and sending them to court of law. Despite this strictness, Tanzania remains one of the largest cannabis producers in the world, cultivated in the forests for nearly half the country's regions. Tanzanian authorities continue to work with local law enforcement authorities to eradicate the cannabis plants in Tanzania.

3.0 A Need of Curbing Cultivation of Cannabis Plants in Tanzania

The cultivation, possession, sale or supply of cannabis plants for any purpose in Tanzania is against the law. Several measures have been taken to prevent the cultivation of cannabis plants but the problem still exists. One of the measures taken by the Government of Tanzania is enactment of the law such as the Drugs and prevention of illicit traffic in drugs Act³⁶ where by section 12 of the Act provides that any person found guilty of the offence of cultivation of cannabis would be liable to a fine of one million shillings or three times the market value of the cannabis or imprisonment for term not exceeding twenty years or to both but this punishment seems to prove failure. In 2015 the Act was repealed and replaced by the new Act which was the Drug Control and Enforcement Act³⁷ whereby under the provision of section 11 the sentence for the person who is guilty of cultivation of cannabis was enhanced to be the minimum of 30 years imprisonment without any option of fine. Despite the effort and measures taken by the government of Tanzania on eradicating the problem of cultivation of cannabis in Tanzania but still the speed of cultivation increase day today and become more serious. The increase of cultivation of cannabis in Tanzania has become a serious problem despite of heavy punishments awarded by the law. This has made the researcher to speculate the challenges and effectiveness of the law in curbing the cultivation of cannabis plant in Tanzania. This paper intends to examine several legal challenges face the implementation of laws in curbing the cultivation of cannabis plant in Tanzania.

²⁸ Cap.95 R.E 2022

²⁹ [United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988](#)". Retrieved on 30th December 2023

³⁰ [United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988](#)". Retrieved on 30th December 2023

³¹ Chapter 134 of the laws

³² Cap 200 R.E 2022

³³ Act. No. 9 of 1995

³⁴ *The Drugs and Prevention of Illicit Traffic in Drugs Act 1995 Op. Cit. Section 4,5.*

³⁵ *The Drug Control and Enforcement Act [CAP. 95 R.E. 2019*

³⁶ Act No. 10 of 1995

³⁷ CAP 95 of RE 2019



4.0 Legal Challenges facing the Implementation of Laws in Curbing the Cultivation of Cannabis Plants in Tanzania

There are several legal challenges face the implementation of laws in curbing the cultivation of cannabis plant in Tanzania. Includes;

4.1 Stringent out-cry over porosity of her spectacular borders

Inadequate border patrols by the security forces and lack of requisite technology in border entries and ports in detecting and taking measures against perpetrators of illicit drugs. In Tanzania, areas like Tarime near the border of Kenya is where mostly cannabis plants are produced hence it is very rare to conduct patrol to curb cultivation of cannabis.

4.2 As a matter of practice and reality

The fight against cultivation of cannabis plants is not a one man show, rather, it is a collective endeavour. It is a war that functions successful when an output by one entity or organization becomes an input to another entity or organization in a syndication form. Currently, there has been non-existent of meaningful relationship involving key players in the fight crucially led by the Ministry of Health, the Office of the Chief Government Chemist Authority, the Medical Stores Department and the DCEA. From a practical point of view, there has not been clear distinction and linkage in terms of functionalities and responsibilities between and amongst the above mentioned. For instance, the Chief Government Chemist Authority and the DCEA are authorities that operate without clear cut-off points with regard to their extent of powers in fighting against cultivation of cannabis plants in Tanzania.

4.3 Inadequate Expertise in dealing with Cultivation of cannabis Plant

There is presence of inadequate expertise such as specialization in the Chief Government Chemist Laboratory for accreditation under the international standards as in the case of the TFDA Laboratory. Need for special laboratory under the DCEA aims at addressing the influx of samples in the Chief Government Chemist Laboratory where by it has been reported that there had been a backlog of pending samples for testing caused by several urgency calls for analysis, those regarding illicit drugs inclusive. Also, there has been limited number of analysts in the Office of the Chief Government Chemist incapable of performing all the pending assignments in the Office of the Chief Government Chemist such as conducting investigations and testifying in Courts amongst. The above has resulted into inordinate delays causing injustice to accused persons thus hampering criminal justice. Also, the time spent in a request for forensic laboratory analysis covering the time when a request is placed before the analyst for investigation until when results are collected. Practically, completion of investigations and issuing of results has been a challenge caused by inadequate qualified number of gazetted analysts. Such inadequacy has been the source of complaints from accused persons and others in need. There have existed challenges on delays from experts in the office of the Chief Government Chemists. It has been argued that, the cause has been due to un-proportionality of experts in the office of

the Chief Government Chemist as the same are required in conducting other tests in complement to their duties in court. The trend is about shifting upon amendment to section 205 of the Criminal Procedure Act vide the Written Laws (Miscellaneous Amendment) (No. 2) Act³⁸ that dispenses the requirement for experts to tender the expert report in person. Despite the incorporated strengths to the Drug Control and Enforcement Act, yet, there exist some gaps that need to be filled up vide some further amendments. Importantly, the Drug Control and Enforcement Act has extended mandate to deal with offences on conducts of drug business whilst on board through Tanzanian ships and other conveyances though the same does not cover ships or other means of conveyances of non-Tanzanian nature or of another nationality.

4.4 High costs in conducting anti-drug operations

The high costs in carrying out operations against cultivation of cannabis plant in Tanzania have been the reason for States to narrow the category of drugs they would address, meaning that, not all illicit drugs are taken on board, rather, the identified few illicit drugs. States have resorted into mechanisms where punitive measures against producers, users and traffickers in cannabis plant are preferred in deterrence as well as treatment and public awareness. Many countries found to have fallen prey to “drugs lords” backed by the existent ineffective or lack of financial muscles.

4.5 During Conducting of Inspection

When conducting inspections that involve witnesses other than Police Officers. The practice has been that, when such witnesses are required to testify in court, it has been so difficult to trace them for some do hide their true communications and locations. Such state of affairs has been due to lack of awareness to the general public on their constitutional duty and obligation to cooperate whenever it comes the issue of evidence.

4.6 Inadequate Knowledge and skills

There has been few training programmes to capture the new contemporary varieties of illicit drugs as well as techniques in exportation and importation of illicit drugs generally. New forms, kinds and varieties of illicit drugs and synthetic drugs have not been considered as well as learning of new innovations of treatment to addicts and reformation processes especially to police officers when it comes to the operation of capturing the individual who cultivate cannabis plants.

4.7 Defecation processes sometimes take long

Defecation processes sometimes take long up to three consecutive days from the date of arrest. It becomes tense when rotation of the witnessing police officers is involved thus hampering the concept of chain of custody. There have been discussions on applicability of the four hours rule in the defecation process. Such challenge has

³⁸Introduction of section 205A to section 205 of the Criminal Procedure Act, [Cap. 20] vide section 13 of the amending Act, that is, the Written Laws (Miscellaneous Amendment) (No. 2) Act; the Criminal Procedure Act, [Cap. 20] RE 2022.

been addressed through creation of some new forms catering such situations. It has been urged for establishment of a procedure capturing chain of custody suiting cases of the peculiar nature of illicit drugs. In Tanzania, most operations of arresting the people dealing with cultivation of cannabis plant in village areas or remote areas are done during night time because it is easy to arrest and people who are involved in operation are not seen easily to let suspects to run the area to fear to be caught and arrest by the police officers. Some suspects are arrested during night hours and weekends rendering difficult for investigators to seek and or obtain Magistrate's approval for extension of time under the Criminal Procedure Act³⁹. Thus, this calls for amendment of the Criminal Procedure Act to suit the circumstances. It is crucial to cure such statutory challenges that prosecutors and investigators may play their roles accordingly and accord cooperation and coordination among stakeholders within the spirit of criminal justice and patriotism against cannabis plant.

4.8 Tests of cannabis plant the law requires the presences of scientific qualified people

Though the Drug Control and Enforcement Act⁴⁰ has not provided a definition for government analyst, yet, the meaning of the phrase government analyst has been ascribed to what was stated through the Parliamentary Hansards that a government analyst does not necessarily require to be a chemist from the scientific perspective of understanding that could have cleared such doubt. Under such circumstances where rights of individuals and national security are at stake, all legal and scientific measures have to be properly, also, dully considered and safeguarded. Employing persons who are not scientifically recognized chemists in the field will sabotage the rule of law and associated fundamental rights in safeguarding individual rights.

4.9 Absence of an independent laboratory

Where the DCEA will conduct investigations on alleged cultivated cannabis plant. Apart from the called for impartiality in dispensation of criminal justice, the intended laboratories for the purposes of conducting tests are so expensive for they resemble the only laboratory affiliated in the Office of the Government Chemist capable of conducting tests on chemicals in Tanzania Mainland and other neighbouring States. Due to the expensive nature of such laboratories, it will be absurd to invest huge sums of money in procuring and equipping the laboratory though its establishment undoubtedly seeming important. Also, the resistance by the stakeholders in criminal justice for having a special laboratory attached to the DCEA for the purposes of conducting laboratory investigations and tests to the involved samples alleged to contain illicit drugs components has basis from the danger of lacking impartiality when undertaking its duties and or operations. Since the DCEA is mandated to arrest, seize and take care of all illicit drugs issues in the country, in ensuring impartiality to justice, there is need for an independent authority to handle such testing task that

when the said results are disputed, trust will be accorded for lack of an interest to serve.

5.0 Recommendations on the effective way of curbing Cultivation of Cannabis Plants in Tanzania

These recommendations laid the foundation in curbing the cultivation of cannabis plant in Tanzania as shown below.

5.1 To the Government

Immediate calling for response regards to the empowerment of community in economic activities in order to replace the notion of cultivating cannabis plant. Such mechanisms will also stand as support to those engaged in abuse of illicit drugs where some NGOs will tap all the necessary data and information through establishment of some entrepreneurship to sustain lives of addicts thereafter.

Both education and awareness are crucial considering that some people consume certain kinds of illicit as mechanisms for strength, performance and brilliance especially students or while others associate them with spiritual beliefs. Others have been using illicit drugs for leisure without knowing the negative impacts to themselves and the community at large. Grassroot security should involve ten cell leaders, such grassroot leaders know and have the requisite information with regard to dealers in illicit drugs. Tactics should be engaged in tracing illicit drugs including engagement of policemen who operate without wearing easily identified uniforms and or bearing identities. There is thus need to establish and or strengthen the existent Criminal Justice Forum. The Government should consider the cultivation of cannabis plant as an opportunity to attaining foreign currency. For example, in Rwanda, the government has approved the cultivation of the controversial plant for export only. Medicinal use and recreational use however remain illegal in the country. Rwanda is targeting to grow its proceeds from the exportation of cannabis in the global cannabis market. According to research New Frontier Data analysis, the global cannabis market is currently valued at \$345 billion. The government approved the regulatory guidelines on cultivation, processing and export of what they classify as high-value therapeutic crops. Tanzania government should also, adopt ways to attain the foreign currency for nation development.

5.2 To the Legislature

Despite enactment of the respective legislation against cultivation of cannabis, yet, the same legislation requires some further amendments towards effective fight against cultivation of cannabis plants. Sections 11 and 12 of the Drugs Control and Enforcement Act⁴¹ that prohibits cultivation of plants related to illicit drugs and powers of the DCEA to permit, control and regulate such cultivation amongst respectively with other related sections 15, 16, 17, 18, 19, 20 and 21 of the Act⁴² should be further amended to provide mechanisms worth implementation.

³⁹Section 51 of the Criminal Procedure Act Cap 20 RE 2022

⁴⁰CAP. 95 RE 2019

⁴¹ The Economic and Organised Crime Control Act [Cap. 200 R.E. 2022]

⁴² The Economic and Organised Crime Control Act [Cap. 200 R.E. 2022]



The government should ensure that the witness is protected. In Tanzania, witness is protected under Whistle Blowers and Witness Protection Act.⁴³ The Act, was enacted to promote and facilitate reporting of organized crimes, corruption offences, unethical conduct, and abuse of office, illegal and dangerous activities such as cultivation of cannabis. It also provides for the protection of whistle-blowers and witnesses against potential retaliation and provide for a legal mechanism to reward and compensate whistle-blowers and witnesses. Although, the Act does not give the room to provide financial award to the witness as well as confidentiality. The government make some an amendment of some provision The Economic and Organised Crime Control Act⁴⁴ especially section 11 of the Drug Control and Enforcement Act should be included on paragraph 23 of the first schedule to the Economic and Organised Crime Control Act since a person commits an offence under this paragraph is charged for economic offence who commits under section 15, 16 or 23 of the Drugs Control and Enforcement Act. The person who cultivate the cannabis plant the law shall treat that offence as the economic offence and not the criminal offence. This will show the seriousness of the government in fighting for the cultivation of cannabis plants

5.3 To the Institutional

Regarding the challenges facing the DCEA, the issued report⁴⁵ by the Office of the Prime Minister managed to identify critical implementation challenges in the fight against illicit drugs including amongst, shortage of human and financial resources, longevity of boundaries covering the Indian Ocean and other border control challenges. Other proposals being investment in technology in reciprocating that used by dealers in illicit drugs. Partnership patrols involving States has been proposed as solution in resolving challenges against illicit drugs trafficking. The report proposes for need to create databases in all States with a duty to collect and keep data in detecting the magnitude of illicit drugs problems so as to project some probable solutions. Therefore, to cater for the above, there should be special unit for data collection and analysis through establishment of illicit drugs database. Such avenue can be established under the current Drugs Control and Enforcement Authority.

Procedural requirements under the Economic and Organized Crimes Control Act Rules⁴⁶ is another challenge towards speedy disposal of cases thus calling for revisit towards their timely disposal. Cases filed in courts should be those whose investigations are complete with exceptions to only few depending on their nature and circumstances. Courts should not be considered as places where cases are dumped, rather, taken for determination. Tanzania Mainland should maintain a specific state of common understating and strategy in combating illicit drugs. There is great need to revisit the existent jurisdiction of the courts against the allocated number of judges, support staff and all aspects of resources generally. Regarding collaboration between the offices of the

Government Chemist Laboratory Authority (GCLA) and those of the DCEA, implementation of some suitable interim measures ahead of creating permanent solution should focus at enhancing intensive collaboration between the GCLA and the DCEA, strengthening of control mechanisms and inspections in all borders and entry points, strengthening of monitoring and inspections in all premises dwelled by the registered dealers in chemicals and calling for the general public to report incidents or premises suspected to be engaging in in cultivation of cannabis plants. The debate regarding establishment of a special laboratory for testing illicit drugs as it stands the special laboratory held at the GCLA should be careful reconsidered for the sake of impartiality. Such reconsideration should address complaints regarding tempering of samples of substances alleged to be illicit drugs or rather fixing results favouring the prosecution as the DCEA will be prosecuting and doing the testing at the same time fear of biasness as the DCEA would make all tests positive. Though the aim by the DCEA is to fast track tests on illicit drugs samples, yet, consideration to impartiality is of utmost importance.

5.4 To the Community

The issue of cultivation of cannabis is associated with custom and belief of a certain culture. While others associate them with spiritual beliefs. Others have been using cannabis as illicit drugs for leisure without knowing the negative impacts to themselves and the community at large. Grassroot security should involve ten cell leaders, such grassroot leaders know and have the requisite information with regard to dealers in illicit drugs. Tactics should be engaged in tracing illicit drugs including engagement of policemen who operate without wearing easily identified uniforms and or bearing identities. There is thus need to establish and or strengthen the existent Criminal Justice Forum.

6.0 Conclusion

The prosecution of cannabis plant has faced challenges to the extent of resulting the prosecution losing cases that they would otherwise earn convictions due to investigation flaws and evidence tendering anomalies. Criminal justice through its established principles is set for proof beyond reasonable doubts. Compliance or non-compliance to substantive and or procedural requirements either builds or destructs a prospective case. For instance, failure to establish the proper chain of custody in a case with such requirement accompanies acquittals to some potential convicts in criminal cases despite of availability of some sufficient evidence only if such cases are properly investigated and dully prosecuted. Generally, there have been unsuccessful trials though not because of lack of cogent proof through the gathered evidence. Such state of affairs has been despite gathering of enough evidence by the prosecution just be dragged by some irregularities and anomalies in the evidence gathering procedures. Notably, studies revealed that, some evidence have been deliberately destructed or not tendered to the detriment of the prosecution side associated with some corruption practices. Some evidence is not tendered for undisclosed reasons in hand with what was gathered during investigation by the prosecution side. Retirement of investigation

⁴³ No.20 of 2015

⁴⁴ Act [Cap. 200 R.E. 2022]

⁴⁵ The Economic and Organised Crime Control Act [Cap. 200 R.E. 2022]

⁴⁶ The Economic and Organised Crime Control Act [Cap. 200 R.E. 2022]



process prompts prosecution of the charges against an accused person.

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Domestic Laws

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- The Drug Control and Enforcement Act No. 5 2015
- The Drug Control and Enforcement Regulations of 2016
- The Noxious Plants (Prohibition) Ordinance of 1926
- The Drug Control and Enforcement Act 2019

