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CANNABIS IN KENYA

ABSTRACT

In 2018, Kenneth Okoth, a member of Parliament for the Kibra Constituency in Kenya, introduced a Marijuana Control Bill in parliament. Okoth's bill sought to legalise the growth and use of cannabis, establish a system for the registration and licensing of cannabis growers and users, promote the use of cannabis for medicinal purposes, and increase public awareness of cannabis. This last point is critical in that Okoth understood that public knowledge of cannabis was shallow at the very moment when the country was debating prohibition, and he considered public awareness a critical component of this debate. Undoubtedly, the shallowness stems from a dearth of scholarship on cannabis in Kenya and East Africa. This study attempts to close the gap on the historiography of cannabis in Kenya. It historicises cannabis before the country's independence in 1963, revealing that the British colonial government sanctioned cannabis for medicinal use but prohibited it for recreational purposes among Africans. The essay grounds the history of cannabis in Kenya within a longer history of making and re-making citizens and contributes to a more complex understanding of how bodies, goods, and ideas move across time and space.

Keywords: *Cannabis, Ganja, Kenya, Britain, Colonial, Prohibition*

1. HISTORICAL GEOGRAPHY[1]

"It is impossible to understand human history without accounting for the centrality of drug taking as a fundamental human impulse".[2]

The diffusion of cannabis into Kenya is debatable. Brian M du Toit, whose essay, "Man and Cannabis in Africa: A Study of Diffusion", was the first comprehensive attempt to examine cannabis diffusion and use in Africa, postulates that "during the *first centuries* A.D. Arab traders who had settled around the Horn and southwards from Mogadishu had introduced cannabis to the indigenous African population [italics added]".[3] Du Toit offers a liberal timeline of "centuries" but does not explain what constitutes "first". Although by the thirteenth century cannabis had established a foothold in the northern Kenya/southern Ethiopia region, Du Toit sees it as the "suggested" period "for the introduction of cannabis into Africa"[4] and credits Arab traders for introducing it to the Horn of Africa. "From these northern locations," he writes, "along the coastal settlements of what is today Somalia and Kenya, cannabis was carried and traded into the interior where its presence and use in northwestern Ethiopia have been documented".[5] Some scholars have rejected du Toit's Arab thesis by countering that Indians (for example Gujaratis, Axumite Ethiopians, or Sabaean Arabs) could have introduced cannabis to East Africa, but it is unlikely that Islamic Arabs were involved.[6] Others have warned against advancing the Indian thesis solely on etymology,

1 Colonial Kenya had Africans, Whites, and Asians. The prohibition laws targeted Africans and, therefore, this study pays close attention to Africans and the British colonial government. Covering all constituents living in Kenya during the colonial era risk extending the study beyond its limit. In addition, the study focuses on the colonial effort to control cannabis indica, not cannabis sativa (hemp) or other kinds of intoxicating substances—such as alcohol and khat (miraa). For extended examination of other intoxicating substances, See, D Anderson and N Carrier, "Khat in colonial Kenya: A history of prohibition and control", *Journal of African History* 50 (3), 2009, p. 377-397; N Carrier, "A respectable Chew?: Highs and lows in the history of Kenyan Khat". In: N Carrier (ed.), *Drugs in Africa : Histories and ethnographies of use, trade, and control* (New York: Palgrave, 2014).

2 B Breen, *The age of intoxication: Origins of the global drug trade* (Philadelphia: University of Pennsylvania Press, 2019), pp. 5.

3 BM Du Toit, "Man and cannabis in Africa: A study of diffusion", *African Economic History* 1, 1976, p. 28.

4 Du Toit, "Man and cannabis in Africa: A study of diffusion", pp. 19.

5 Du Toit, "Man and cannabis in Africa: A study of diffusion", pp. 28.

6 JE Philips, "African smoking and pipes", *The Journal of African History* 24 (3), 1983, p. 315; AE Roberts, "Smoking in Sub-Saharan Africa". In: SL Gilman and Z Xun (ed.), *Smoke: A global history of smoking* (London: Reaktion Books, 2004), p. 46; Duvall, "Cannabis and tobacco in pre-colonial and colonial Africa". ; CS Duvall, *The African root of marijuana* (Durham, NC: Duke University Press, 2019), pp. 17.

such as *bangi* in East Africa (*bangi* is a Hindi loanword for cannabis in Swahili, but it also draws from Farsi (*bang*) and Arabic (*banj*)).[7]

Barney Warf has suggested 1100 A.D. as the period when cannabis first entered Kenya (Fig. 1). Very much like Warf, Chris Duvall holds that the plant arrived in East Africa "perhaps 1 000 years ago"[8] or "as early as 2 000 years ago".[9] Elsewhere, Duvall states that "a few" cannabis "grains" were present in central Kenya as early as 1 500 CE,[10] and that "maritime trade carried the plant from western India to the Arabian Peninsula and East Africa, arriving in Kenya by 700 CE".[11]

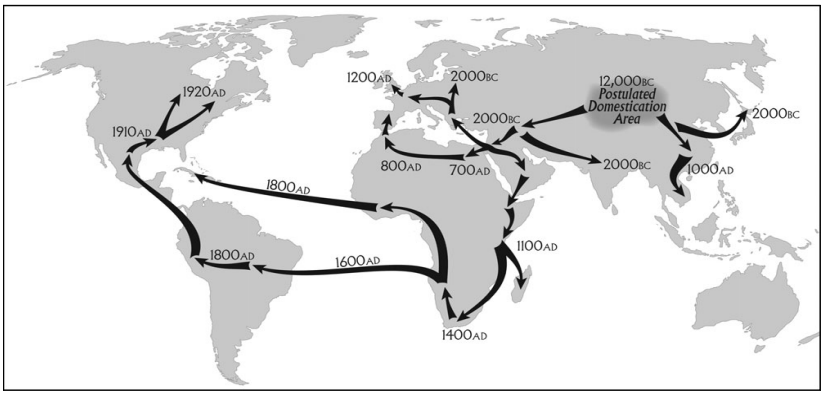

Fig. 1. Warf, "High Points: An historical geography of cannabis", p. 419.

The glaring difference in periodisation highlights the challenges facing scholars examining a historical topic whose actors hardly documented it. Duvall is certainly correct that "the drug [cannabis] plant is relatively rare in the documentary record because people had many reasons to conceal their cannabis use".[12] Cannabis's biological dispersal preceded the written record, which complicates the task to stitch together a neat historical canvas of material objects that informed everyday life, especially in Africa, where the past is often reconstructed from partial truth and outright fabricated accounts by early European ethnographers, scientific explorers, and Christian

7 Duvall, *The African root of marijuana*, p. 55-78.
8 Duvall, *The African root of marijuana*, p. 12.
9 Duvall, *The African root of marijuana*, p. 53.
10 Duvall, "Cannabis and tobacco in pre-colonial and colonial Africa", pp. 4; Duvall, *The African root of marijuana,* p. 76.
11 CS Duvall*, Cannabis* (London: Reaktion Books, 2015), p. 46.
12 Duvall, *The African root of marijuana,* p. 128.

missionaries on the continent.[13] Cannabis in Africa is a neglected topic of scholarly inquiry and, as Duvall points out, "Africa has been neglected in cannabis histories".[14] The neglect is hardly surprising, because Africanists tend to overlook less sensational themes and actors in Africa. In the past, scholars have privileged dramatic stories of wars and rumors of wars, diseases and starvation, colonialism and nationalism, and the failures of post-colonial states.

Cannabis in Kenya traces its roots to south Asia.[15] It diffused globally along several routes but arrived in East Africa through the Arabian Peninsula. Early diffusion saw it cut across the Red Sea into North Africa before turning north to Western Europe. For unknown reasons, cannabis did not take the Sahara trading routes that would have brought it into contact with West Africans, but Du Toit speculates that the hot Sahara climate probably dissuaded traders from considering that possibility. Du Toit theorises that West Africans were "unwilling to accept it",[16] a theory that informs his argument that cannabis was not in West Africa before the Second World War (WWII). Holding onto this logic, Du Toit concludes that no ethnographic evidence exists to support cannabis's presence before WWII in West Africa. Warf has challenged this assumption (Fig. 1 above), and Duvall hints that psychoactive cannabis (*indica,* which exhibits psychoactive chemistry) was present in nineteenth-century West Africa.[17] In Duvall's view, "by 1925 cannabis had gone westward [from East Africa] to Nigeria [in West Africa]".[18]

Du Toit probably overlooked the fact that the absence of material objects in West Africa—such as smoking pipes—should in no way imply the absence of smoking.[19] In any case, such objects would not be found in societies (in ancient Eurasia, for example) that inhaled smoke through inefficient technologies—such as "fumigated tents, in which most smoke enters ambient air rather than lungs".[20] Edwards John Philips has warned against making any connection between pipes and the early smoking of cannabis in Africa, because the archaeological evidence on early cannabis smoking in Africa has been "less convincing", "tenuous," and "highly questionable".[21]

13 For an extended discussion on this topic, See, J Fabian's *Out of our minds: Reason and madness in the exploration of Central Africa* (California: University of California Press, 2000).
14 Duvall, *The African root of marijuana,* p. 15.
15 Duvall, *The African root of marijuana,* p. 12.
16 Du Toit, "Man and cannabis in Africa", p. 20.
17 Duvall, *The African root of marijuana,* pp. 13-15.
18 Duvall, *The African root of marijuana,* p. 85.
19 Philips, "African smoking and pipes", pp. 303.
20 Duvall, "Cannabis and tobacco in pre-colonial and colonial Africa", pp. 3.
21 Philips, "African smoking and pipes", pp. 313-14.

It is true that "the history of the spread of cannabis across the Indian Ocean from its original home in Asia is still largely unknown".[22] It is also true that cannabis first arrived in Kenya through the Indian Ocean trade routes that connected the country's coastal shores of Mombasa, Kilifi, and Lamu to the outer world (Fig. 2). By the 1500s, Portuguese sailors in eastern Africa had encountered cannabis *indica,* suggesting that cannabis culture along Kenya's coastal towns and Indian Ocean littoral had established itself centuries earlier. Shortly after its arrival, cannabis headed inland, moving along the interior trading routes that facilitated trade between Africans and the Swahili traders, whose caravans spread cannabis seeds to the interior, probably after 1500. Caravans commonly carried cannabis among their provisions for trade, and soldiers and potters on them smoked cannabis, underscoring the fact that Africans along the caravan routes cultivated and consumed cannabis for recreation and pleasure.[23] Indeed, cannabis in Kenya was "introduced as a product to smoke rather than in the form of hashish to be eaten as it was in Egypt".[24] Recently James Walton made the same essential point more precisely in reference to *dagga* in southern Africa, where Africans used various types of pipes to "smoke" it "communally" and considered it "a source of pleasure".[25] Western explorers in Congo Free State established that *bene diamba* (the children of hemp) inhaled smoke "through the lungs, a habit, also applied to the custom of smoking hemp . . .".[26] Unlike Asians who consumed

22 Philips, "African smoking and pipes", p. 315.
23 Fabian, *Out of our minds,* p. 161; Duvall, *The African root of marijuana, p.* 19.
24 Du Toit, "Man and cannabis in Africa", pp. 28.
25 J Walton, "The dagga pipes of Southern Africa", *Researches of the National Museum* 1, 1963, p. 89.
26 Fabian, *Out of our minds*, p. 161.

cannabis orally, Africans smoked it using pipes that were first invented in Africa before spreading across the globe.[27]

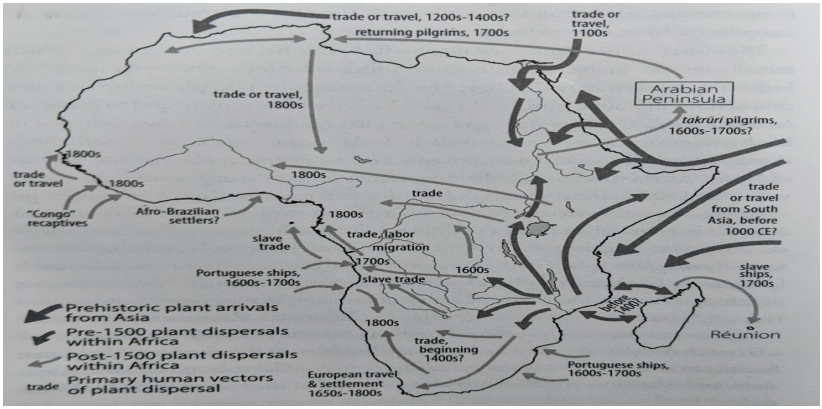

Fig. 2. Duvall, *The African root of marijuana*, p. 82.

2. THE WAR AGAINST CANNABIS

Britain found a robust cannabis culture among Africans when it established colonial rule in East African Protectorate (hereafter Kenya) in 1895. For the next 17 years colonial administrators did not scrutinise cannabis growth and consumption among Africans with the same vigor they reserved for voluntary and involuntary labour, agriculture, and healthcare management. But the casual approach to cannabis changed following the International Opium Convention of 1912 in The Hague, Netherlands, which instigated changes that saw Governor Henry Conway Belfield's administration in Kenya pass The Abuse of Opiates Prevention Ordinance, 1913 into law. The law came into effect the following year, on 4 March 1914, when Belfield published it in the government's gazette. At the conclusion of the conference in The Hague, to which Britain sent four representatives to represent its overseas colonies, including Kenya, the signatories affirmed to "consider it desirable to *study* the question of Indian hemp from the *statistical and scientific* point of view, with the object of regulating its abuses, should the necessity therefore be felt, by internal legislation or by an international agreement [italics added]".[28]

27 Duvall, "Cannabis and tobacco in pre-colonial and colonial Africa", pp. 1; Duvall, *The African root of marijuana,* p. 53.

28 The International Opium Convention,The Hague, 23 January 1912, p. 34.

For unknown reasons, Britain, which had established the Indian Hemp Drugs Commission (hereafter IHDC) in 1893 to study cannabis, did not guide the Hague Convention on this critical issue.

In creating the IHDC, Britain's Secretary of State directed the British Governor-General in India to "appoint a Commission to inquire into the cultivation of the hemp plant in Bengal, the preparation of drugs from it, the trade in those drugs, the effect of their consumption upon the social and moral condition of the people, and the desirability of prohibiting the growth of the plant and the sale of marijuana and allied drugs".[29] Upon its creation, the IHDC Commission members collected data from "witnesses" through questionnaires and written testimonies about this "little . . . known" plant. With the hope of finding out the extent to which cannabis "can be used for the preparation of drugs, whether in the milder or the more noxious forms",[30] the Commission produced a 3 000 page report that concluded that the "moderate" use of cannabis appeared to cause no physical, mental, or moral, injuries. That cannabis had instigated the creation of the Indo-British Commission suggest that Britain had taken a keen interest in the plant's effect on its colonial subjects.

Shortly after the IHDC's report, the United States proposed the International Opium Conference of 1912. Convoked by the Netherlands, the conference paid close attention to opium, cocaine, and morphine. The conference's final document contained six chapters and twenty-five articles dedicated to "the gradual suppression of the abuse of opium, morphine, and cocaine, as also of the drugs prepared or derived from these substances . . .".[31] At the conference Italy had lobbied for "an international ban on cannabis, largely based on hashishism in its protectorates Tripolitania and Cyrenaica (obtained from Turkey during a war in 1911)",[32] but most countries had not experienced the anxiety that informed Italy's trepidation. Consequently, the "Indian hemp" was placed at the bottom of the document under the obscure subtitle of Final Protocol of the International Opium Conference. It seems that, at least from the conference's outcome, cannabis had not induced the same global anxiety that brought international scrutiny onto opium, morphine, and cocaine.

Yet, without the statistical and scientific data that the International Opium Convention of 1912 called for, Belfield's administration in Kenya criminalised

29 Report of the Indian Hemp Drugs Commission, 189-94, Volume , p. 1, http://digital.nls.uk/74464868, accessed 20 August 2019.

30 Report of the Indian Hemp Drugs Commission, p. 2.

31 The International Opium Convention, p. 25.

32 D Ballotta *et al*., "Cannabis control in Europe", *European monitoring for drugs and drug Addiction* 8 (1), 2008, p. 101.

cannabis. In doing so, the Governor evoked "internal legislation", a phrase appearing in the International Opium Convention of 1912 document, to pass the Abuse of Opiates Prevention Ordinance, 1913. This ordinance marked the first legal document in Kenya aimed at "the suppression of the abuse of opium and certain other opiates",[33] which included cannabis. As Kenya moved swiftly to outlaw cannabis without research and scientific data, the United States, the architect of the International Opium Conference of 1912, hesitated. Instead, officials in Washington paid close attention to the increasing use of opiates, which they hoped to address through a national narcotic policy in 1914. In fact, two decades after the Hague conference, America did not take on substantial work on cannabis. It began serious consideration in the mid-1930s, when it carried out a two-year study of cannabis that saw government officials admit to Congress that cannabis was "comparatively new to the United States"[34] and "was largely an unknown quantity".[35] After the study and Congressional hearings, the United States passed into law the Marijuana Tax Act of 1937 that outlawed cannabis. Western European countries waited much longer, so prohibition and prosecutions did not start until after WWII, and the first "substantial wave of convictions for cannabis offences did not occur until in the 1960s".[36] Recently, European justice systems have increasingly moved away from convictions to cautions, probations, fines, counseling and exemption from punishment.[37] In Kenya, however, Belfield's administration rushed to institute an ordinance that outlawed cannabis, ignoring the IHDC's call for scientific research, but accepted the report's "control and restriction" recommendation as a sure way to legislate cannabis and curb its use.

3. THE ABUSE OF OPIATES PREVENTION ORDINANCE, 1913

Enacted by the Governor with the advice and consent of the Legislative Council, the Abuse of Opiates Prevention Ordinance 1913 came into effect in January 1914. Broad in scope, the ordinance defined opiates as "opium, bhang [cannabis], morphine, cocaine, and heroine".[38] It defined each opiate but left cannabis unattended, an oversight that allowed government officials to use intuition to understand cannabis and define it according to their own understanding. The ordinance prohibited anyone in the colony (other than

33 Kenya National Archives, East Africa Protectorate Annual Report for 1913-1914.
34 *The American Magazine* 124 (1), 1937.
35 M Schaller, "The federal prohibition of Marihuana", *Journal of Social History* 4 (1), 1970, p. 72.
36 Ballotta *et al*., "Cannabis control in Europe", p. 101.
37 Ballotta *et al*., "Cannabis control in Europe", p. 111.
38 Kenya National Archives, The Official Gazette of East African Protectorate, 15 October 1913, p. 882.

druggists or medical practitioners) from importing opiates without permission from the Principal Medical Officer, and it outlawed the possession, production, manufacture, and export of opiates without a permit. Those who contravened the new law faced "a fine not exceeding 750 Rupees" or a prison sentence "not exceeding six months" or "both such fine and such imprisonment".[39]

Surprisingly, the ordinance allowed individuals who had "acquired the habit of smoking"[40] cannabis for medical reasons to continue consuming it (discussed below). Aware of the negative impact of "immediate discontinuance" on consumers with medical needs, the framers authorised Medical Officers to prescribe cannabis "not exceeding four ounces"[41] per month and asked those whose health would be detrimentally affected by the new law to acquire permits authorising them to carry and consume cannabis. Consumers were required to disclose their full names and addresses, and the government expected licensed cannabis sellers or suppliers—mostly medical doctors—to endorse upon the permit the date of the sale or supply, the quantity sold or supplied, and their signatures.

Ironically, the same law that authorised individuals to smoke cannabis for medicinal purpose prohibited them from possessing smoking pipes that were commonly used for consumption, making it unclear how the government expected licensed consumers—whose only way of consuming cannabis was to inhale the smoke through a pipe—to consume it. Smoking pipes were essential commodities, and Africans inhaled the cannabis smoke "through a species of native "hookah"' being passed through water and coming into the mouth through a pipe".[42] Africans who contravened this section of the law were fined or jailed, but most ignored it and continued to use smoking pipes. In 1930 the Resident Magistrate's Court in Nakuru tried several Africans under the Abuse of Opiates Ordinance for "unlawful possession of bhang and bhang smoking pipes".[43] The court fined Opore s/o Ronga Ksh. 40/- and imprisoned him for one month for possessing bhang and a pipe. Another defendant, Nganga Wambo, who also possessed bhang and a smoking pipe, received two months without a fine, exposing inconsistency in the sentencing policy under Section 9 and Section 12 (1) Cap: 121 of Kenya's laws.

39 Kenya National Archives, The Official Gazette of East African Protectorate, p. 882.
40 Kenya National Archives, The Official Gazette of East African Protectorate, p. 884.
41 Kenya National Archives, The Official Gazette of East African Protectorate, p. 884
42 Kenya National Archives, Assistant District Commissioner, Taveta, PC/COAST/1/3/54, Indian Hemp Grown and Use by Natives. Circular No. A.O.P 35 From P.M.O. Nairobi, 24 March 1914.
43 Kenya National Archives, Resident Magistrate's Court, Nakuru PC/RVP/6/17/6. List of Cases Tried Under the Abuse of Opiates Ordinance During the Year 1930. Law and Order: Courts-Procedure Criminal-Traffic in Opium.

To ensure that Africans complied with the new law, the government endowed police officers with sweeping powers to search and arrest those who possessed cannabis or pipes without a permit.[44] Moreover, police officers burned or destroyed illegal cannabis and its receptacles, and they were required to immediately inform the Principal Medical Officer under which the forfeiture took place, the amount forfeited, and other particulars showing their compliance with the ordinance's section on medicine. Finally, the ordinance bestowed upon the Governor the power to alter or rescind any rule that was inconsistent with its provisions, especially the two rules on "regulating or prohibiting the growing of Indian hemp [cannabis]" and "regulating or prohibiting the importation or possession of Indian hemp seed or any variety of poppy seed."[45]

The Abuse of Opiates Prevention Ordinance 1913 stayed intact for three years. It was first amended in 1916 and again ten years later, in 1926, to separate opium from cannabis.[46] From its inception, the ordinance remained the most essential document on drugs and a reference guide for government officials in all the levels of government. For example, on 9th June 1915 the Chief Secretary wrote to Provincial Commissioners expressing concern that "cannabis indica i.e. Indian Hemp or Bhang is being cultivated for sale to the Kavirondo working in labour camps and on farms".[47] Drawing their attention to the ordinance, he asked them to "detect and destroy . . . plantations . . . and to proceed against the owners under the Rules dated 5th of May 1914 issued under the Abuse of Opiates Prevention Ordinance 1913".[48] He lamented about government officers who were "not familiar with the appearance of the plant" and asked the Provincial Commissioners to make sure the officers "apply to the Agricultural Department for particulars".[49]

Broadly, the Chief Secretary's correspondence reveals several key points worth examining. First, it is silent on who in colonial Kenya—Africans, White settlers, Indians—cultivated cannabis, but it hints that those who cultivated it on "plantations" sold it to African buyers and consumers for commercial gains. Cannabis in colonial Kenya had a thriving black market, clientele, and demand, and farmers turned it into a cash crop, as their

44 Kenya National Archives, The Official Gazette of East African Protectorate, p. 885.
45 Kenya National Archives, The Abuse of Opiates Prevention Amendment Ord. 1916 AG/32/24; Kenya National Archives, The Official Gazette of East African Protectorate, p. 886.
46 Kenya National Archives, The Abuse of Opiates Prevention (Amendment) Bill, 1926, The Official Gazette of the Colony and Protectorate of Kenya, 7 April 1926, p. 427.
47 Kenya National Archives, Chief Secretary to Provincial Commissioners PC/COAST/2/12/1, Use of Bhang by Natives. Abuse of Opiates Prevention Ordinance 1913: Bhang Kilifi Plantations, 9 June 1915.
48 Kenya National Archives, Chief Secretary to Provincial Commissioners PC/COAST/2/12/1.
49 Kenya National Archives, Chief Secretary to Provincial Commissioners PC/COAST/2/12/1.

counterparts in colonial Africa did.[50] Farming took place in regions with long and short rain seasons that supported cannabis growth and industry.

Secondly, the Chief Secretary's admission that by 1915 government officials were unaware of the plant's appearance is unsettling, yet the government expected these very officials to wage a successful war against an enemy they hardly knew. Rather than ask the Agricultural Department to publish and distribute pamphlets with the plant's image and description, the Chief Secretary directed the officials to "apply . . . for particulars" from the Department. One wonders how many samples of cannabis indica were at the Agricultural Department, and whether the samples were to be mailed to the applicants or whether the learners were required to appear in person at the Department. Either way, those who took the lessons must have learned that cannabis indica is short, stocky, and has leaves that are broader than cannabis sativa, which is tall and has thin and pointed leaves.

Thirdly, the correspondence shines a bright spotlight on the intersection of labour and cannabis, revealing that African labourers consumed it to increase their capacity to perform physically demanding labour.[51] Cannabis was a labour enhancer for African labourers, and it improved their morale and endurance in labour-intensive industries. This, in turn, ensured a sustained output that "directly aided capitalist expansion".[52] As a stimulant, cannabis endeared itself to African farm workers who consumed it before, during, and after work. In addition to farmworkers, African troops enjoyed it, and it stimulated them the same way it did farm workers.[53] Universally, cannabis is said to give soldiers a lot of energy.[54] Troops smoke cannabis to numb themselves from everything, to acquire energy to stay awake for weeks, and to appear fierce.[55] Cannabis enhances camaraderie among the troops, it is readily available, and it makes fighting enjoyable.

Finally, the Secretary's correspondence links cannabis to specific ethnic groups in colonial Kenya. It specifically singled out the Kavirondo farmworkers as the main consumers (Kavirondo was a colonial coinage for Luos and Luhyas of Western Kenya). Luos "associated *njaga* [cannabis] with their ancestors".[56] suggesting that cannabis culture was deeply rooted among them before British colonial rule in 1895, but the Secretary's correspondence failed to appreciate this. Although cannabis was—and still is—a global plant that

50 Duvall, "Cannabis and tobacco in pre-colonial and colonial Africa", p. 1.
51 Duvall, *The African roots of marijuana,* p. 160.
52 Duvall, *The African roots of marijuana,* p. 165.
53 Kenya National Archives, ED Emley DC/KSM1/19/153: "Bhang Cases", Growing of Bhang and Opium, 30 May 1914.
54 I Beah, *A long way gone* (New York: Sarah Crichton Books, 2007), p. 121.
55 Beah, *A long way gone,* p. 121.
56 Duvall, *The African roots of marijuana*, p. 76.

attracted a global consumer, the Secretary's framing suggests that prohibition in colonial Kenya assumed a racialised interpretation. Perhaps Duvall made the point best when he established that cannabis "diffused socially within labour underclasses," but it "did not remain associated with any particular cultural or geographic group".[57]

Cannabis endeared itself to African consumers before the Abuse of Opiates Prevention Ordinance 1913, and it continued to do so after the ordinance became law the following year. Smoking cannabis was "very common" among the Wanyamwezi in Taveta,[58] and by 1941 Africans were transporting "sacks of bhang . . . from Kisumu"[59] to Thika. A decade later, a District Commissioner lamented that "far too many" Africans in Central Nyanza "possessed cannabis".[60] About the same time, Desmond O'Hagan, Provincial Commissioner, Coast Province, received reports indicating that "a considerable quantity of bhang" was "being grown in the Taita Hills".[61] As the plant circulated widely among Africans throughout the colony, in 1961 the Kenya Police seized 1 370 kg of cannabis[62] and 2283 kg the following year, which was 913 kg more than the previous year.[63] In Mombasa a total of 648 kg was seized, which exceeded the previous year's total by 421 kg. No one really had convincing answers to why cannabis had increased in the face of tough prohibition measures, and government officials were frustrated, with the District Commissioner in Malindi lamenting that "even if this order [prohibition] is properly carried out I am convinced that [Africans] will manage to get the bhang [cannabis] they want".[64] The official was correct. Africans had established a consumer-buyer network with local and foreign suppliers

57 Duvall, *The African roots of marijuana*, p. 49.

58 Kenya National Archives, Assistant District Commissioner, Taveta, PC/COAST/1/3/54. Circular No. A.O.P. 35 from P.M.O Nairobi. Indian Hemp Grown and Use by Natives. 24 March 1914.

59 Kenya National Archives, Provincial Commissioner, Nyanza, Opium DC/KSM1/19/153. Sale of Bhang by Natives. Growing of Bhang. 1 July 1941.

60 Kenya National Archives, District Commissioner, Central Nyanza, DC/KSM1/19/153. Being in Possession of Bhang. Growing of Bhang and Opium. 4 July 1951.

61 Kenya National Archives, D O'Hagan, DC/TTA/3/9/19. Bhang. Colony and Protectorate of Kenya. 10 April 1956.

62 Kenya National Archives, FT Stackpool, BY/11/86. Report by the Government of Kenya for the Calendar Year 1961 on the Traffic in Opium and Other Dangerous Drugs Ministry of Health: Dangerous Drugs Ordinance-1932: Narcotic Drugs—Annual Returns International Opium Convention.

63 Kenya National Archives, EH Lindsey, BY/11/82. Indian Hemp (Cannabis Indica). Dangerous Drugs Ordinance 1932. 21 February 1963.

64 Kenya National Archives, Assistant District Commissioner, PC/COAST/1/3/54. Abuse of Opiates Prevention Ordinance. Indian Hemp Grown and Use by Natives. 12 March 1914.

from Tanganyika, where cannabis cultivation was "practically unrestricted".[65] In addition, cannabis was affordable. It sold from Sh. 1/- to Sh. 5/- per ounce, and "cigarettes containing bhang change[d] hands at about 20 cents each".[66]

Not to be outdone, the government moved swiftly to curb cannabis expansion and consumption among Africans by destroying the plant, arresting and prosecuting farm owners and consumers, convicting them, and imposing fines and "maximum sentences"[67] as penalties. As the government cast the prohibition net wide, regional officials called for "rigorous fines and imprisonments" as "the only available methods" to stop the "habit".[68] Increasingly, they called for steep fines and long jail terms and asked the central government to give magistrates, police, village headmen and elders the "power to destroy" cannabis plants and impose "a suitable penalty".[69] Others, like Charles William Hobley, Provincial Commissioner, Coast Province, argued for establishing a system that would offer rewards in exchange for information leading to arrest.

As calls for extortionate penalties increased, the central government increased surveillance by collecting data from District Commissioners and asked licensed drug stores to disclose the "dangerous drugs"[70] they carried in their stores (discussed below). In Voi district, the District Commissioner explained to the central government that "the Indian Hemp" was "neither grown nor used by the Wataita".[71] His counterpart in Taveta noted that only Wanyanmwezi had developed a keen taste for cannabis, but the "smoking . . . vice" had "not yet penetrated to the Wataveta."[72] As far as the Assistant District

65 Kenya National Archives, District Commissioner, Kilifi, PC/COAST/2/12/1. Bang. Abuse OF Opiates Prevention Ordinance 1913: Bhang Kilifi Plantations. 26 April 1929.

66 Kenya National Archives, Stackpool, BY/11/86.

67 Kenya National Archives, DWDF Farqumar, BY/11/82. Indian Hemp (Cannabis Indica). Dangerous Drugs Ordinance 1932. 14 February 1963.

68 Kenya National Archives, Assistant District Commissioner, Taveta, PC/COAST/1/3/54. Circular No. A.O.P. 35 from P.M.O Nairobi. Indian Hemp Grown and Use by Natives. 24 March 1914.

69 Kenya National Archives, CW Hobley, Provincial Commissioner, Coast, PC/COAST/1/3/54. Indian Hemp Grown and Use by Natives. 19 March 1914.

70 Kenya National Archives, TA Sharkey, BY/11/86. Dangerous Drugs Conventions. Annual Return of D.D.A. Held at 31December 1962. Ministry of Health: Dangerous Drugs Ordinance-1932: Narcotic Drugs—Annual Returns International Opium Convention. 15 February 1963.

71 Kenya National Archives, District Commissioner, Voi, PC/COAST/1/3/54. Indian Hemp Grown and Use by Natives. 20 March 1914.

72 Kenya National Archives, Assistant District Commissioner, Taveta, PC/COAST/1/3/54. 24 March 1914.

Commissioner in Rabai was concerned, "no Indian Hemp [was] grown" there and it was "not in use amongst the natives".[73]

Anxious to make prohibition work and subdue Africans, the government turned to chiefs and headmen and authorised them to search the homes and farms belonging to Africans and to issue orders prohibiting cannabis growing.[74] Because Europeans in power were few, had limited physical contact with Africans, and hardly understood local tongues, the government relied on African chiefs and headmen to enforce the prohibition at the village level. For the most part, chiefs and headmen performed their assignments satisfactorily. On other occasions, however, they came up short. For example, in 1937, Elisha, an agriculture instructor in Kajulu, Nyanza Province, made several rounds instructing African farmers on modern agriculture methods when he "found bhang [cannabis] growing in the mtama shamba [millet farm]" belonging to Awor Kabungu. Required to report the matter to the local authority, Elisha instructed chief Mlango Ogol to arrest Kabungu, but the chief hesitated because he was "frightened of him".[75] Kabungu was eventually apprehended and "convicted for possession of bhang and sentenced to pay a fine of Shs. 40/- or 1 month detention today".[76] Kabungu's case was not an isolated incident. In 1961, a judge in Nairobi fined a Luo tribesman Sh. 1 000/- or nine months imprisonment for possessing 35 pounds of cannabis. Unable to pay the fine, the man served the sentence.[77] Although the two cases involved Africans, "subsistence drug use of cannabis was, emphatically, not a generic African (or European or Asian) thing",[78] but the government singled out Africans for consuming cannabis and blamed them for growing it between rows of millet and maize to hide it from public view.[79]

Harsh convictions and penalties, such as those Kabungu and the Luo tribesman endured, were plenty. Africans were routinely convicted for offenses contrary to Section 10 of the Dangerous Drugs Ordinance (Cap. 129) for

73 Kenya National Archives, A Champion PC/COAST/1/3/54. Indian Hemp Grown and Use by Natives. 1 March 1914.

74 Kenya National Archives, WS Marchant DC/KSM1/19/153. Bhang. Growing of Bhang and Opium. 12 July 1933; Kenya National Archives, Assistant District Commissioner, PC/COAST/1/3/54. Abuse of Opiates Prevention Ordinance. Indian Hemp Grown and Use by Natives.12 March 1914.

75 Kenya National Archives, Agricultural Officer, Nyanza PC/NZA/3/2/212. Bhang Growing. Plant Weeds: Control Striga Weed 1934-52. 1 May 1937.

76 Kenya National Archives, WAW Clark DC/KSM1/19/153. Bhang Growing. Growing of Bhang and Opium. 5 May 1937.

77 Kenya National Archives, HR Walker BY/11/86. Annual Report: Traffic in Drugs 1961. Ministry of Health: Dangerous Drugs Ordinance-1932: Narcotic Drugs—Annual Returns International Opium Convention. 28 February 1962.

78 Duvall, *The African roots of marijuana*, p. 49.

79 Kenya National Archives, Agricultural Officer, Nyanza, PC/NZA/3/2/212. Bhang Growing. Plant Weeds: Control Striga Weed 1934-52. 1 May 1937.

cultivating or being in possession of cannabis. In O'Hagan's recollection, in 1932 the government sentenced African offenders "by the African Courts to six months imprisonment with hard labor".[80] Writing to his counterpart in Nyanza Province in 1956, O'Hagan, the Provincial Commissioner, Coast Province, asked whether Nyanza took "firm action" against African growers and consumers and "what [was] the usual sentence for this offence."[81] Sentencing lacked uniformity, and it remained that way throughout the colonial era. According to a government report of 1961, "sentences imposed varied from fines of Sh. 5/- to Sh. 500/- with maximum prison sentences of up to six months depending on the seriousness of the case and the amount involved".[82] Sentencing also included hard labour for the non-violent crimes of planting, smoking, or possessing cannabis.

Rigid penalties did not always yield a positive outcome. While they may have dissuaded Africans in some regions, they hardly persuaded Africans in other regions to abandon cannabis. By 1956 in Central Nyanza, there were few convictions and sentences were low, with small fines imposed.[83] The same cannot be said of Taita during the same year, where cannabis was considered "very dangerous, and its use [was] spreading"[84] among Africans. The spread concerned officials in Taita, who sought ways to stymie it.[85] Taita's spike mirrored a national trend. According to the national figures of 1961, the government prosecuted 2 469 offenders for illicit possession and ten for illicit cultivation of cannabis.[86] Although the figures show a rise from the previous year, the Commissioner of Police argued in his report that they did not indicate that cannabis consumption was on the increase or popular among Africans.[87] The report further suggested that Africans who were "addicted to smoking 'bhang' look upon it as a 'strong tobacco,' and will smoke it whenever they get the chance".[88] The Commissioner's view on addiction seemed incontrovertible, but a close examination reveals that reports on addiction

80 Kenya National Archives, O'Hagan, Provincial Commissioner, Coast, DC/TTA/3/9/19. Bhang. Colony and Protectorate of Kenya. 10 April 1956.
81 Kenya National Archives, O'Hagan, Provincial Commissioner, Coast, DC/TTA/3/9/19. Bhang. Colony and Protectorate of Kenya. 10 April 1956.
82 KNA, Stackpool, BY/11/86.
83 Kenya National Archives, R. C. Mills, DC/TTA/3/9/19. Bhang. Colony and Protectorate of Kenya. 1 May 1956.
84 Kenya National Archives, RA Wilson, DC/TTA/3/9/19. Bhang Smoking. Colony and Protectorate of Kenya. 6 March 1956.
85 Kenya National Archives, Wilson, DC/TTA/3/9/19. Bhang Smoking. Colony and Protectorate of Kenya.
86 Kenya National Archives, Stackpool, BY/11/86.
87 Kenya National Archives, Walker, BY/11/86. Annual Report: Traffic in Drugs 1961. Ministry of Health: Dangerous Drugs Ordinance-1932: Narcotic Drugs—Annual Returns International Opium Convention. 28 February 1962.
88 Kenya National Archives, Walker, BY/11/86. Annual Report: Traffic in Drugs 1961

were contradictory. The authors of a government report of 1961 on the traffic in opium and other dangerous drugs "suspected some addiction",[89] but they also pointed out that there were "no records of known addiction".[90] Throughout history, cannabis has consistently been a remarkably benign drug with no documented case of anyone ever dying from overdosing on it.[91]

Collectively, prohibition, convictions, and penalties regulated cannabis and "the knowledge and social relations surrounding it".[92] More than this, however, they served to make and re-make submissive citizens who conformed to social and legal expectations. With the help of Christian missionaries and White settler farmers, the government instituted "British discipline" to produce what Karen Blixen, a Danish writer and settler farmer in colonial Kenya, characterised as "a different kind of African—not really unfriendly, but reserved in the presence of white strangers".[93] Blixen assumed "all" Africans possessed "a strong sense of dramatic effects",[94] and believed it was her moral duty to "help"—presumably the government—shape Africans into morally acceptable citizens.

Hoping that Africans would accept a romanticised image of pliable citizens, government officials acted surprised when the opposite happened. In March 1956, Mutula Kishigwa shamed the "British discipline" by rejecting to conform to an alien notion of an African. Described by colonialists as "the homicidal maniac",[95] Kishigwa murdered seven people and wounded three others—mostly women. According to the colonial grammar of Africans who rejected constructed images of upright citizens, Kishigwa had "turned into a wild beast".[96] His crime became a topic of concern among the officials who, instead of reexamining their own theory and praxis of citizenship, blamed cannabis for turning Africans into criminals. Kishigwa, they argued, "was a bhang smoker"[97] and, therefore, must have committed the crime while under its influence.

The desire to link cannabis to crime in colonial Kenya was not new. It had been tried in India, a British colony. In May 1891, a local newspaper in India proclaimed that the country's psychiatry institutions were "filled with

89 Kenya National Archives, Stackpool, BY/11/86.
90 Kenya National Archives, Stackpool, BY/11/86.
91 Warf, "High points: An historical geography of cannabis", p. 432.
92 Breen, *The age of intoxication,* p. 185.
93 W Attwood, *The reds and the blacks* (New York: Harper and Row Publishers, 1967), pp. 168.
94 K Blixen, *Out of Africa* (London: Putnam, 1937), pp. 36.
95 Kenya National Archives, RA Wilkinson, DC/TTA/3/9/19. Bhang Smoking. Colony and Protectorate of Kenya. 6 March 1956.
96 Kenya National Archives, Wilkinson, DC/TTA/3/9/19. Bhang Smoking.
97 Kenya National Archives, Wilkinson, DC/TTA/3/9/19. Bhang Smoking.

ganja smokers".[98] British colonialists in India and native Indians accepted this view, which was repeated in other British colonies, including Kenya, where the outcry was louder during the Mau Mau war of land and independence (1952-60). John Collin Carothers, a British psychiatrist in colonial Kenya and author of the controversial book *The Mind of Man in Africa,* spearheaded the blarney that linked war crimes in Kenya to cannabis use among African fighters.[99] Carothers argued that cannabis contributed to "toxic psychosis" among Africans, a trend he insisted contributed to the increase in admission to mental hospitals in colonial Africa.[100] His counterparts in the colony propagated a similar view that aimed to disparage and discredit Mau Mau's reputation locally and internationally. Collectively, they described cannabis as "the drug [that] produce[s] euphoria and intoxication but also alleviate[s] fatigue and increase[s] 'staying power'".[101] Cannabis appeared to them as something that "excite[s] emotion and give[s] a sense of bravado so that daring acts may be committed".[102] This reasoning pervaded the colonial discourse, with the Police Department entertaining reports suggesting that "members of Mau Mau gangs are drugged with 'bhang' before an operation".[103] Directed by Major General Hinde, the general in charge of military operation against Mau Mau, to "ask for a brief report on the effects of this drug" from the Director of Medical Services, the Police Department hoped to "have some idea of how long the exhilarating effects of the drug last, when the 'hangover' sets in, and the effect of it".[104] The prevailing rhetoric among police officials suggested that "the stimulating effect wore off after 3-5 hours" followed by a period in which "sleep supervenes"[105] but the Police Department pressed for additional specifics. It is important to point out that the insinuation that Mau Mau fighters consumed cannabis to enhance their operation was a colonial construct fashioned to ridicule the group. Without evidential data, the government relied on pseudo-science, especially from Carothers. Officials did not extend the same insinuation to home guards, who assisted the government to suppress the "terrorist group." Did the home guards use cannabis in the fight against Mau Mau? This is an intriguing question that needs to be examined on its own merit.

98 Campos, *Cannabis and the psychoactive riddle*, p. 16.
99 JC Carothers, *The mind of man in Africa* (London: Tom Stacey, 1972), pp. 150.
100 Carothers, *The mind of man in Africa,* pp. 150.
101 Kenya National Archives, BY/14/20. Stimulant Drugs Used By Africans. Catha Edulis—"Miraa" (Khat) and Bhang.
102 Kenya National Archives, BY/14/20. Stimulant Drugs Used By Africans. Catha Edulis—"Miraa" (Khat) and Bhang.
103 Kenya National Archives, BY/14/20. Staff Officer (Police) to Director of Operations. Narcotics. Catha Edulis—"Miraa" (Khat) and Bhang.
104 Kenya National Archives, BY/14/20. Staff Officer (Police) to Director of Operations. Narcotics.
105 Kenya National Archives, BY/14/20. Stimulant Drugs Used By Africans," Catha Edulis—"Miraa" (Khat) and Bhang.

Some officials within the government questioned the rationale to link cannabis and criminal activities and wondered whether it could survive legal challenges. In Kishigwa's incident, they argued for separating the two and wanted to know who authorised "the statement that the man [Kishigwa] was a bhang smoker, for example Ministry of Health (MOH) or the man's relatives".[106] Court cases against the rush to blame cannabis for criminality were few, but they were more than enough to compel officials to reconsider making the connection. "If you think we are in danger of being sued," wrote the District Commissioner, Taita, to Provincial Information Officer, Mombasa, "let us forget it [the case]".[107]

Kishigwa's and Mau Mau's examples reveal that the process of making and remaking citizens did not always go as planned. Africans slighted the colonial insistence that their moral compass required adjustment, and they countered by arguing that contact between Europeans and Africans had weakened social and moral contracts between individuals and the societies that informed their social behaviors.[108]

4. MEDICAL CANNABIS

The Abuse of Opiates Prevention Ordinance 1913 authorised cannabis for medical use. Undoubtedly, the framers appreciated cannabis's healing properties, even as they vigorously demonised the plant and prohibited its use for recreational purposes. This appreciation, however, borrowed heavily from Africans' knowledge of cannabis as a healing plant. Europeans first learned about the "plant's medical use in the Middle East and Africa, but they confused it with opium".[109] In Africa, they found Africans using it for "snake bite[s], to facilitate childbirth, malaria, fever, blood poisoning, anthrax, asthma, and dysentery".[110] Like other material goods that circulated across the Indian Ocean, cannabis—and the knowledge of its healing power—left Asia for Africa through the Indian Ocean trading routes that connected the two continents. In Asia, especially India, the use of cannabis for medical

106 Kenya National Archives, DC/TTA/3/9/19. Provincial Information Officer, Coast. Bhang Smoking. Colony and Protectorate of Kenya. 6 March 1956.

107 Kenya National Archives, DF Lowther, DC/TTA/3/9/19. Bhang Smoking. Sec. 17: Law and Order: Narcotics, Bhang, Opiates.

108 J Kenyatta, *Facing mt. Kenya* (New York: Vintage Books, 1968); O Odinga, *Not yet uhuru (*Nairobi: Heinemann, 1967); W Maathai, *Unbowed* (New York: Anchor Books, 2006).

109 AW Zuardi, "History of cannabis as a medicine: A review", *Rev Bras Psiquiatr* 28 (2), 2006, p. 155.

110 Zuardi, "History of Cannabis as a Medicine", pp.155.

reasons "remained very intense",[111] and Africans retained the intensity once they acquired the knowledge.

Africans in pre-colonial Kenya enjoyed unlimited access to cannabis for medicinal purposes, but colonialism disrupted the flow with prohibitive ordinances. This disruption is evident in Abdul Rasool's incident of March 1918, when he was required to apply for a cannabis permit on behalf of his sick mother. Government officials suggested that Rasool should contact Dr. Da Gama Rose, who had been authorised, under Sections 4 (1) (4) of The Abuse of Opiates Prevention Ordinance 1913, to import and stock cannabis for medical use. However, the same officials wanted Da Gama Rose to dispense cannabis "by means of a medical practitioner's prescription",[112] which meant that Rassol was supposed to seek "a fresh prescription for every occasion on which the medicine [was] dispensed".[113] The back-and-forth disrupted Rasool's access to cannabis for his ailing mother, even as the officials in charge of assisting him proposed other clinics where he could access it if Dr. Rose had a diminished stock and was unable to restock in good time.

Moreover, the government authorised drug stores, such as the one Da Gama Rose operated, to stock and dispense cannabis, but it also required them to disclose the "dangerous drugs" in stock. It is unclear what the government did with the data from the stores, but what is clear is that cannabis *indica* appeared on most lists of dangerous drugs. Listed alongside cocaine, pethidine, and dromoran, among other opioid medications used to treat moderate to severe pain,[114] cannabis stayed on the list of dangerous drugs throughout the colonial period, and the post-colonial administration upheld the colonial tradition that assumed cannabis was a dangerous substance. Most drug stores stocked minimal quantities of two to sixty ounces. The E. Robson Limited drug store reported having two ounces of cannabis in 1962.

5. CONCLUSION

Cannabis in Kenya reveals a complicated political organisation, hierarchies, resistance, and astonishing legal structures. It enjoys a long and rich history in Kenya and East Africa, a history that includes its geography, prohibition, and

111 Zuardi, "History of cannabis as a medicine", pp.155.

112 Kenya National Archives, AD Milme, PC/COAST/1/15/80. Application for Supply of Opium to Abdul Rasool for His Mother Opium 5 March 1918.

113 Kenya National Archives, Milme, PC/COAST/1/15/80. Application for Supply of Opium to Abdul Rasool for His Mother Opium.

114 Kenya National Archives, Sharkey, BY/11/86. Dangerous Drugs Conventions. Annual Return of D.D.A. Held at 31st December 1962. Ministry of Health: Dangerous Drugs Ordinance-1932: Narcotic Drugs—Annual Returns International Opium Convention. 15 February 1963.

the colonial government's effort to use it as a vehicle through which to model morally acceptable citizens. However, this history "is poorly documented . . . and primary and secondary literature is relatively thin".[115] Admittedly, the present study is not a comprehensive history of cannabis in Kenya, but it is a historical work that explores broader matters of historical significance through a topic that has not been addressed before (no historical study exists examining cannabis in pre-colonial Kenya. By no means is this study exhaustive, but it offers a starting point for more detailed work on cannabis in that country). Pointedly, the study reveals a complex web of human movements, goods, and ideas across time and space, as well as the history of Empire, encounter, and human interaction with botanical species. Because the history of cannabis in Kenya is rooted in the colonial past, understanding that past allows us to understand proper management of cannabis that informed Okoth's Bill in 2018.

115 Duvall, "Cannabis and tobacco in pre-colonial and colonial Africa", p. 4.