

EDITORIAL

On the Legality of Natural Psychoactive Substances

The World Health Organization (WHO) defines psychoactive drugs as '*substances that when taken in or administered into one's system, affect mental processes e.g. perception, consciousness, cognition or mood and emotions*'. These drugs are disaggregated into permitted (alcohol, caffeine, nicotine, marijuana, pain medicines) and prohibited substances such as heroin, lysergic acid diethylamide (LSD), cocaine, and amphetamines based on potency as well as disabling and addiction potential. The scope is quite wide and legality depends on socio-cultural, religious and economic dynamics within the jurisdiction of interest.

Man's reliance on psychoactive substances (PAS) to cope with existential environmental stresses and threats, enhance individual performance in addition to the desire for pleasure, mood control, and extension of consciousness has existed since antiquity. Invariably, PAS use is associated with alteration of the normal state. Diverse substances were historically utilized in the battlefield to enhance alertness, efficiency, *esprit de corps* and consequently influence outcomes; though their adverse after-effects including addiction were heavily criticized.

The only psychoactive mentioned in the major sacred texts is alcohol whereby drunkenness is forbidden. One then can only deduce the implicit condemnation of drug use and the compelling need for the staid state of the religious servants and faithful. The need for mankind to cope with daily stresses and threats may have required use of psychoactives within the ecosystem, thus triggering normalization of consumption and commercialization. Throughout ancient and medieval history, PAS usage was accepted in specific communities until the 20th century when the drug issue was systematically delimited through three main sequences *videlicet* medicalization, criminalization, and moralization, all being outcomes of globalization. Thereafter the drug discourse transitioned into hegemonic prohibitionism based on moral panic regarding psychoactive substances. The resulting puritanism has modulated contemporary understanding of psychoactive substances irrespective of their safety ratio.

The controversial ban of the coca leaf sanctioned under the provisions of the United Nations Single Convention on Narcotic Drugs, 1961 encountered protest from some states linked to licit traditional uses. In this respect, Bolivia cited traditional use (through chewing or herbal teas) by indigenous peoples in the context of individual rights. This culminated in Bolivia withdrawing from the convention in 2012 and subsequent re-accession in 2013 upon reservation of traditional coca leaf chewing (*acullico*). Despite the arguments advanced for legalization of *Erythroxylum coca*, evidence demonstrates deleterious psychotropic effects of the natural leaf.

No recreational drug has probably generated more controversy than *Cannabis*. Historical medicinal use is recorded in China, Egypt, and Greece. It was also widely pipe smoked among African communities. Despite its negative psychosocial impact, proponents of legalization go into great depths to justify use. Records of ritualistic applications in Hindu, Chinese, shamanic, pagan and Rastafarianism practices reveal acceptability in these circles. Cultivation for commercialization is promoted in several African and European countries for medicinal purposes even though recreational use is prohibited.

Simple caffeine-based stimulants such as tea, coffee and cocoa often get into the mix due to habitual use despite their low toxicity and addictive potential. Control and prohibition of otherwise legitimate substances reflects blurred boundaries for borderline psychoactives such as khat. The plant has attained commercial cultivation for economic gain particularly in Kenya and Uganda. The May 2023 landmark case in the Constitutional Court of Uganda that nullified the Act that banned *miraa* on technical grounds without delving deeper into issues of legality or psychotropic status does not engender definitive classification.

Nonetheless, the plant was maintained as a prohibited plant under *Schedule 4*, after a parliamentary process amended the offensive statute.

In 2014, the United Kingdom (UK) imposed a khat ban anchored in the Misuse of Drugs Act 1977. The decision was contested by the Kenyan government on economic and fair-trade grounds. Frantic appeals by the Kenyan government to the UK to restore trade in *miraa* were met with a resolve to maintain *status quo*. In this issue of the journal, Mukungu has provided an interesting narrative review of khat amidst raging debate in Kenya *c.* 2024 April, following attempts to ban it in some counties.

There is no common interpretation of the legality and legitimacy of social use of some natural products containing psychoactive principles. Whatever the case, a delicate balance between historical use and defiant behavioral influence should be struck in the control of the subject substances.

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