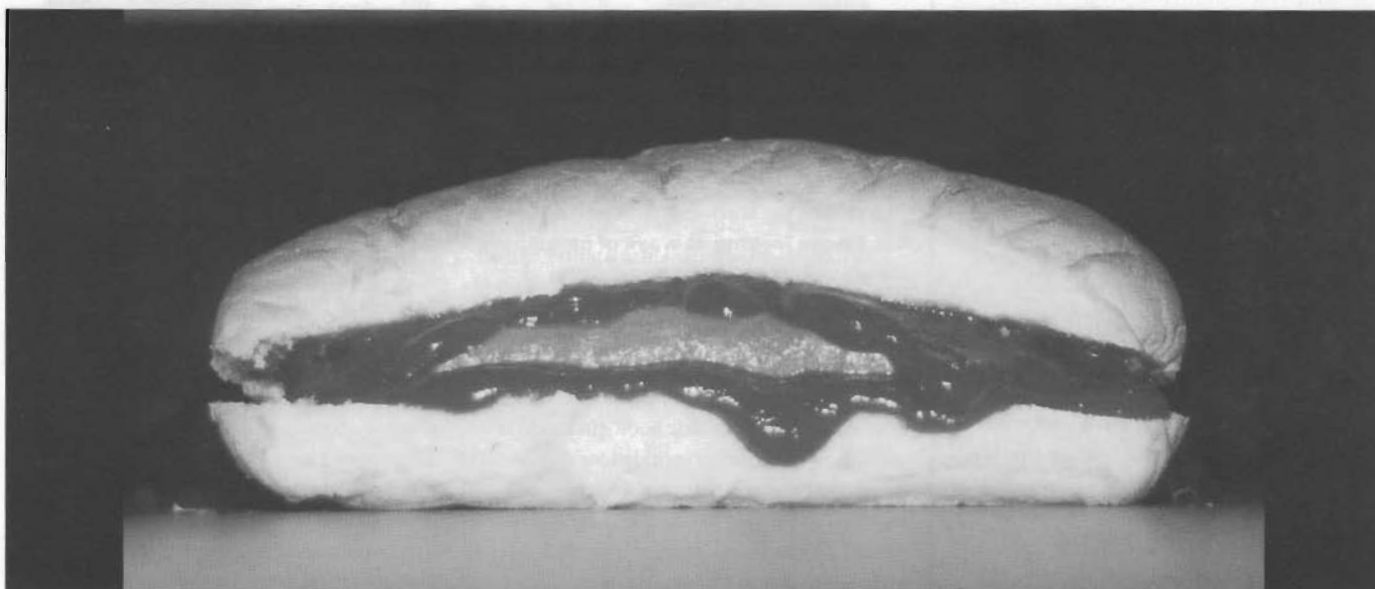


Harry Shapiro

What's in a sausage?

The roots of cannabis prohibition



The law reform lobby has been revitalised in the nineties supported by elements within the body politic, the media, medicine, the police and the judiciary and an unknown but growing proportion of the public. However, most governments, international agencies – in fact, most of the population – are still implacably opposed to any relaxation of controls, usually citing medical evidence and the obligations of treaties and conventions as obstacles to reform. But how did the key drug in this debate, cannabis, become a controlled drug in the first place? Harry Shapiro digs down to the roots of prohibition and turns up a sausage

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When Anthony John Curtis, an 18 year old plumber's mate was arrested at the Harmony Inn in Soho for possession of cannabis in October 1952, little did he know that he was making history as the first British teenager to go on record as being a regular user of cannabis.¹ The drug has a medical, religious, recreational and commercial history stretching back thousands of years, but it is only the last few decades that have seen attempts to control the non-medical use of cannabis – attempts apparently founded upon international consensus.

But early efforts at control were sporadic. In the 19th century, Turkey and Egypt legislated against the cultivation, importation, sale and use of hashish while in 1891, the Greek police tried to crack down on hash smoking in the cafes of Athens and Pireus. Meanwhile, thousands of miles away on the island of Trinidad, a tax was levied on the growth of 'ganja'

(the dried flowering tops of the female plant) in an attempt to reduce consumption.² But perhaps the most coherent and comprehensive 19th century examination of cannabis – and one that is namechecked by reformers even today – came in British controlled India and Burma, with the Indian Hemp Commission of 1893 and its seven volume deliberation on the health impact of cannabis.

Indian summer

Reports that the lunatic asylums of India and Burma were filling up with people driven insane by cannabis began filtering through to the Indian colonial government from the beginning of the 19th century. In 1871, an investigation was undertaken to substantiate these claims, resulting in a total ban on ganja in British Burma with restrictions elsewhere relying on taxation rather than legislation.

But the issue refused to go away and

a question asked in the House of Commons finally prompted the government to launch a full scale investigation into the use of cannabis in India. As is well-documented, after an exhaustive survey involving the written and oral evidence of nearly 1200 witnesses, the Indian Hemp Commission concluded that the claims made against cannabis did not stand up to scrutiny and that moderate use of the drug was not only not harmful, but might even be beneficial. Therefore, prohibition was unjustified, and taxation was seen as the way to discourage excessive use.³

Opium and the people

In terms of the general history of international control over non-medical drug use, the defining moment came at the turn of the century when America began to play an important part in world affairs. The Temperance movement there was gaining strength and President Theodore Roosevelt eagerly ushered in a new era of morally-driven reform, aimed at attacking many of the social ills which rapid industrialisation and urbanisation had brought in their wake.

Anxious to exert an ethical as well as an economic and political force in international affairs (Robin Cook take note) and under the guise of helping the Chinese to deal with its British-fuelled opium problem, the USA called a meeting of 13 countries in Shanghai in 1909 followed two years later by a full blown Opium Convention in the Hague. In an age before the League of Nations, let alone the United Nations, this was the very first time the major players on the world stage had gathered to address any social problem on an international basis.

Like the British, Italy had colonial interests in areas where cannabis was regularly used (North Africa), and its delegate raised the issue of cannabis control at the Hague Convention. A decision was made to "study the question of Indian Hemp from the statistical and scientific point of view"⁴, but despite Britain enacting dangerous drug legislation in 1920 (covering only opiates and cocaine), nothing further was mentioned about cannabis at an international level until 1923.



International railroad

In that year, at a meeting of the League of Nations Advisory Committee on Opium, South Africa asked for cannabis to be brought under international control. Again, the matter was deferred, and was not even on the agenda of the 1924 Geneva Opium Convention until the Egyptian delegate demanded that cannabis be controlled after haranguing the meeting with a harrowing account of hashish addiction as experienced in his country.

Perhaps this was true, but there was undoubtedly a great deal of political positioning also going on. Egypt was supported by Turkey in its demand for controls, and both countries were embarking on programmes of modernisation and national revival in an age of empire. Traditional customs such as hashish and opium smoking were just too 'old fashioned'.

But the Egyptian delegate's views on cannabis were not held by everyone in Egypt. In fact, the man charged with trying to keep hash out of the country (at the time, a British Protectorate) did not think the drug was a menace at all.

Chief of Police Thomas Wentworth Russell 'Pasha' was much more concerned about heroin and

The first time the major players on the world stage gathered to address any social problem at the international level was the 1911 Hague Opium Convention

according to his biographer, "was seriously considering some form of government monopoly whereby hashish would be grown domestically ... to produce revenue for the government"⁵. However, this idea was rejected by his superiors as being not the sort of thing which a revived Egypt with a burgeoning nationalism should be encouraging.

Stiff-upper lip

Following the Egyptian intervention, the cannabis question was referred to a sub-committee drawn from 16 countries. Clearly, the time was adjudged ripe for cannabis control, as this group considered no other written evidence on the need for control apart from a written deposition from the Egyptian delegate, and voted for control by a margin of 13 to three

abstentions. Britain, the Netherlands and India all abstained; Britain wanted more investigation into the possible medicinal benefits of resin, while the Indian delegate believed that the use of cannabis in his country for religious and social purposes would make control very difficult.

However, alongside France, Britain was the most powerful League nation at Geneva (the US delegation had walked out when an attempt to limit licit production of controlled drugs on the basis of estimates of world requirement was rejected). This meant that the British government (representing, lest we forget, 'The British Empire') had to be seen to support the international effort, even though it was a non-issue domestically and simply based on the concerns of one nation.

None of the other nations involved in the decision to control cannabis had an indigenous problem either, even the USA. And with no vested commercial interests at stake and therefore no 'pro-cannabis' lobby, the situation was summed up neatly by the US chief negotiator, Stephen Porter: "Happily, as I understand it, no question of revenue is involved. That fact ought to make the decision easier".⁶

One writer has even gone so far as to suggest that the eventual control of cannabis in the States was deliberately engineered not to protect people's lives but to protect the revenues of the petro-chemical industry from the development of hemp as an industrial product.⁷

Thus in 1925, the British government found itself in the position of amending the *Dangerous Drugs Act* to make unlicensed importation or exportation of cannabis an offence. The Act also allowed for restrictions on production, possession, sale and distribution, but this was *not* a requirement of the Geneva Convention, the official British interpretation of which was that:

"There were no provisions [in the Convention] requiring governments to control production, to prevent domestic traffic or even to prevent its non-medical use".⁸

In other words, the initial ban on cannabis in Britain had no real basis in international treaty.

Even in the 1950s, very few nations had domestic cannabis problems: most UN delegates knew next to nothing about the drug and were not going to kick up a fuss about tightening legislation on a 'non-existent problem'



The smell of victory

Despite winning the first battle, the Egyptians continued to press for more controls. An early recognition of this pressure can be read in the 1933 deliberations of the League of Nations Advisory Board on Opium, which suggested that if international controls made opium and coca more difficult to obtain, "recourse will be had to Indian hemp for addiction purposes, and it is important that the trade... should be closely watched".⁶

But it was the return to the fray of the most powerful nation in the world – and in particular, the appointment of Harry Anslinger as head of America's new Federal Bureau of Narcotics – that gave the control lobby its final push. Welcome back, America.

In the mid thirties, and primarily to keep Congressional funds coming into

his beleaguered department, Anslinger orchestrated a domestic campaign against cannabis that resulted in its control under the Federal *Marihuana Tax Act* of 1937. He spent the next two decades successfully steering progressively more draconian drug legislation through Congress, until by 1956, a first offence for cannabis possession carried a mandatory minimum sentence of two years (maximum, ten) and a \$20,000 fine.

From early on, Anslinger also knew that to keep cannabis (and the other plant drugs) out of the USA, he would need cooperation at an international level. He came to dominate not only US domestic narcotic policy, but through the United Nations, brought pressure to bear on any country failing to endorse US interests wholeheartedly. Of the 70 most

influential delegates to the UN Narcotics Commission, Anslinger attended more sessions than anybody else.⁶

From 1946 onwards, he worked almost single-handedly towards the fulfilment of his dream: a single international convention to combat drug trafficking. By 1954, it was a foregone conclusion that in the face of no accepted medical uses for the drug, cannabis would appear in the planned international treaty schedules for the most dangerous drugs.

Morning glory

It seems almost incredible that one individual could wield so much power and influence over international narcotic policy as it related to cannabis. But it has to be remembered that even in the 1950s, very few nations experienced domestic cannabis problems: most UN delegates knew next to nothing about the drug save for the information that Anslinger deemed acceptable to publicise in pursuit of his goals.⁹ Most nations were not going to kick up a fuss about tightening legislation on what was to them a 'non-existent problem'.

Nevertheless, the signing of the *UN Single Convention on Narcotic Drugs* in 1961 was Anslinger's crowning glory. It rationalised all previous international agreements into one document, including a more comprehensive approach to the control of cannabis – not just the medicinal preparations,

but the raw plant as well and in particular, the resin.

The die was apparently cast. As Anslinger was later to write, any "recommendation that marijuana be legalized is purely academic. The United States is party to a treaty with over 70 nations to control the manufacture and distribution of marijuana and could prevent its misuse... Accordingly, there is no possibility of legalizing this assassin drug."¹⁰

However, the official UN commentary on the Convention suggests otherwise. Even at this late hour signatories were not obliged to have controls in place against domestic possession, let alone enforce them. In fact, both India and Pakistan reserved the right to allow the production and use of cannabis in all its forms for non-medical purposes.

That Britain was not concerned about cannabis use was demonstrated only two months after the Convention was signed. The Brain Committee set up to review the UK drug scene declared that "cannabis is not a drug of addiction; it is an intoxicant" (a view still held by many in the field today) and concluded that cannabis use in Britain was insignificant.¹¹ Three years later, the *Dangerous Drugs Act* of 1964 was passed to enforce the Convention in the UK. This Act banned the cultivation of cannabis and also introduced the offence for individuals to allow their premises to be used for smoking cannabis.¹²

Cannabis convictions in the UK, 1930-1996

YEAR NUMBER

1930	1
1931	3
1932	6
1933	4
1934	11
1935	10
1936	8
1937	3
1938	15
1939	n/a
1940	n/a
1941	n/a
1942	n/a
1943	n/a
1944	6
1945	4
1946	10
1947	42
1948	45
1949	56
1950	79
1951	128
1952	87
1953	83
1954	144
1955	115
1956	103
1957	51
1958	99
1959	185
1960	235
1961	288
1962	588
1963	663
1964	544
1965	626
1966	1119
1967	2393
1968	3071
1969	4683
1970	7520
1971	9219
1972	12365
1973	11476
1974	9517
1975	8987
1976	9946
1977	10607
1978	11572
1979	12409
1980	14912
1981	15388
1982	17447
1983	20066
1984	20746
1985	21337
1986	19286
1987	21733
1988	26111
1989	33669
1990	40194
1991	44209
1992	41353
1993	56390
1994	72393
1995	76694
1996	72745

Sources: Home Office Statistical Bulletins and UK Reports to the League of Nations/United Nations. (Figures are subject to regular revision.)

What price an international convention?

The idea that international obligations contribute towards the *status quo* policy response to drugs is not borne out by the facts. In reality, the explicit requirement to have in place criminal controls against domestic use did not appear until the UN Convention of 1988, under pressure from 'producer' countries for the 'consumer' countries to take action against consumption. But even then, there is no absolute requirement in the Convention for signatories to pursue this sanction through the courts:

"The Party may choose to deal with drug abusers through alternative non-penal measures involving treatment, education, after-care, rehabilitation or social reintegration programmes".¹³

In other words, as one UK expert puts it, the UK police could simply give offenders a laminated card outlining the dangers of drugs. If they offend again, they could be given another card in slightly bigger print.

In point of fact, between 1961 and 1988, the UK, Canada, America and Australia all made recommendations for a *reduction* in national penalties on cannabis possession. During the 1970s, 11 US states reduced the penalties for possession to a 'misdemeanour', and more recently the Dutch have taken an administrative decision not to enforce the laws against cannabis possession while in Italy, Germany and Spain the laws against possession have also been relaxed. And no international treaties have been broken so doing.

But except for a more benign view of the possible therapeutic value of cannabis, none of this unilateral activity has impacted at all on the international level, where agencies regularly rail against any moves to relax controls.

Ultimately, whatever the ethical or political arguments in support of cannabis prohibition, it is hard to swallow the assertion that laws have been enacted to honour international obligations based upon a sober consideration of the medical evidence. Because for anybody who tries to invoke the laws in this debate, the same advice is extended as to those who like sausages – don't ask too many questions about how they are made ■

1. *UK Annual Report to the United Nations for 1952*. New York, 1953.
2. *Report of the Indian Hemp Commission, Volume 1*. India, Simla, 1894.
3. Kalant O. "Report of the Indian Hemp Commission 1893-94: a critical review." *International Journal of the Addictions*. 1972, 7(1), p77-96.
4. Advisory Committee on Drug Dependence. *Cannabis*. HMSO, 1968.
5. Inglis B. *The Forbidden Game*. Hodder and Stoughton, 1974.
6. Bruun K. et al. *The Gentleman's Club: International Control of Drugs and Alcohol*. University of Chicago Press, 1975.
7. Herer J. *The Emperor Wears No Clothes*. Hemp Publishing, 1985. Some of the associations between the industry, its bankers, and the likes of William Randolph Hearst and Harry Anslinger, the head of the narcotics bureau are compelling, but no direct evidence for collusion is offered.
8. Bean P. *Social Control of Drugs*. Robertson, 1974. Professor Philip Bean, personal communication.
9. While at the same time, publicly rubbing any alternative views such as those of the La Guardia Report on the *Marihuana Problem in the City of New York* (1944) which concluded that use of the drug did not lead to mental and moral degeneration.
10. Anslinger H. "Anslinger replies on marijuana." *The Altoona Mirror*: March 1970.
11. Ministry of Health. *Drug Addiction. Report of the Interdepartmental Committee*. HMSO, 1961.
12. According to Les Ackroyd (personal communication) who worked in the Home Office Drugs Branch at the time, the premises offence had nothing to do with obligations under the Single Convention. Around this time, many more music clubs were opening where cannabis was being smoked. When the police raided, all the hash was thrown on the floor and so nobody could be charged with possession. Therefore, it was decided to make the club owners responsible.
13. *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988*. New York, UN, 1991.