



Cannabis: Forced Crop Eradication in South Africa

A Report by Fields of Green For ALL

South African Registered Non-Profit Organization

Prepared for the

[Global Forum of Producers of Prohibited Plants](#)

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Introduction

[Fields of Green for ALL](#) is a South African registered Non-Profit Company, whose primary initiative is the legalization and regulation of the Cannabis plant for all uses. [The Dagga Couple](#) is the social activism department of the organisation.

We are [affiliated](#) with various international organisations, including aspects of UNGASS 2016 in the context of civil-society and interested parties committed to finding solutions to the failed “War on Drugs”. We believe that the continued prohibition of Cannabis is at the very core of what is wrong with current drug policies, in South Africa and throughout the world. Cannabis prohibition needs to be a priority and dismantled on every level so that the scene may be set for more sensible drug policies with regards substances which present a real danger to our people.

The organization's primary project is to prepare evidence and garner support for a case due to start in the South African High Court (Pretoria) during 2016. This is being called “[The Trial of the Plant](#)” and evidence will be heard from numerous local and international [experts](#). Seven South African government departments are respondents in the case of [Julian Stobbs and Myrtle Clarke vs the South African government](#). The case will be the first of its kind where it is the government that must defend its actions with regards to Cannabis prohibition. The case [challenges the state](#) on the basis of the human right to dignity, life and freedom of choice and in respect of cultural heritage and traditional custom and religion.

History

South Africa has a particular [history](#) (full timeline) with the Cannabis plant as it was South Africa that placed the Cannabis on the list of banned substances during the [Single Convention on Narcotics Act of 1928](#). At that time and place, the plant was mainly used by the indentured labourers from India as a sacrament and was banned as it was seen as an “undesirable” element by the ruling colonialist. A summary of the history of Cannabis prohibition in SA is contained within the first seven minutes of the short documentary, [Dagga: The Truth](#).

Failure of the Current System.

Within the current South Africa context it is estimated that two thirds of the population is either using Cannabis or has used Cannabis in some form during their lives.

Thousands of rural families rely on this plant to supplement their meagre incomes and there are an estimated 1000 ARRESTS A DAY for Cannabis possession, trade and cultivation.

The South African fight against drugs, and especially Cannabis, can only be described as a massive failure.

The cost of maintaining the status quo is increasing year on year, with no indication that the current policies are decreasing the use of Cannabis or any other “drugs”.

We urge the member states to realize that the idea of a “Drug Free World” is not an attainable goal and a sober view and approach to the problem needs to be taken.

[At What Cost: The Futility Of The War On Drugs In South Africa](#) and it's follow up [At What Cost: Too Many Rands And Too Little Sense](#) – documented researched and compiled by our local affiliates, The Anti-Drug Alliance - outline the economic toll Cannabis prohibition is taking on our already stretched economy.

In the last two years (2014 / 2015) the war on Cannabis cost the South African tax payer over R3.5 billion (over \$223.7million). The majority of arrests were for Cannabis, with a small number being for so-called “hard drugs”.

The “facts” and “research” that the prohibitionist government departments use to maintain the status quo are profoundly out of date. Please take note of the following documents available on our [website](#) and included in the files for this forum:

- [Drugs and Drug Trafficking Act No140 of 1992](#)
- [Medicines Act 101 of 1965](#)
- [Central Drug Authority Position Paper on Cannabis](#)
- [National Drug Master Plan 2013 - 2017](#)
- [Report from the Central Drug Authority Round Table Discussion on Cannabis 2015](#)
- [United Nations Single Convention on Narcotic Drugs, 1961](#)

On The Ground.

The South African Police Services (SAPS) make use of low flying helicopters to spray Kilomax, a glyphosate herbicide, on rural subsistence farmers. We would like to emphasise that this practise started in the mid 1990's, a few years into our young democracy. This is not the actions of the apartheid government, this is the action of a government that professes to have dismantled apartheid laws.

Cannabis prohibition is the last apartheid law and is alive and well in South Africa. A result of our government's unconditional and uninformed adherence to international protocols.

The international involvement in the South African aerial spraying of glyphosate poisons is without doubt. We know that funding and technical support for this programme comes from Europe and the United States and it is up to us to enlist the help of forums such as this to put an end to this dangerous and inhumane practise.

This is a matter of extreme urgency as we are currently half way through the growing season. We expect that the helicopters will be back in the rural areas within the next 6 weeks to start their annual month-long flights of death. See our short documentary ["Police in Helicopters."](#)

We are aware of aerial spraying in the Eastern Cape, KwaZulu Natal and Limpopo provinces, as well as in our neighbouring country, Swaziland. The following are the most disturbing issues we discovered when visiting a remote rural area in the Eastern Cape Province in early 2015:

- The areas targeted for spraying are in pristine rural areas renowned for their unique biodiversity.
- The spraying happens within 4 weeks of the crops being ready to harvest.
- The spraying is indiscriminate with no regard to food crops, homesteads, livestock, river courses or people.
- Spraying is executed with small helicopters that are able to fly very low over the affected areas, low enough for the pilots to laugh at the people on the ground as they are disgorging their poison. This is a frequent and very distressing occurrence.
- Pilots are accommodated at an expensive lodge in the area and all their needs are taken care of for the full duration of the operation, about 6 weeks. The spraying takes place in the early morning with an average flying time of 2 hours per day. The SA tax payer is footing the bill.

- In a desperate attempt to recoup losses, farmers often sell plants or parts of plants that have not been directly hit by the poison, thus exposing users to dangerously contaminated Cannabis.
- No environmental impact assessment has ever been carried out in areas prior to spraying.
- The people affected by the spraying are acutely aware of the necessity for these assessments as the area has been subject to numerous mining and mineral exploration controversies which persist until today.
- There is the feeling that these rural people are being taken for granted with the oversights in terms of the environmental laws surrounding such an enclave of pristine biodiversity. These farmers have no recourse to the law. Should the police arrive on the ground and arrest the farmers for cultivation and confiscate their crops for evidence, we would be in a position to help them in court. Indiscriminate aerial spraying not only has the potential to damage their health, that of their families, animals and environment, it is also a serious violation of their human right to equality before the law.
- The arbitrary nature of crop eradication leaves many on the ground in a state of bewilderment as to the root cause of these actions.
One farmer asked why the government had never come to them, sat down with them and explained why they are not allowed to grow Cannabis. When we explained that the government says that this plant is illegal because it is bad for you, he just laughed and said:
"How can they think that when we use it for ourselves when we are sick, we use it for our animals and we sell it to help send our children to school?"
- One elderly woman explained that some of the pilots in the helicopters are from the Eastern Cape. She wondered if they remembered that this plant probably paid for their education.

Over the years since the spraying started, various “interest groups” have visited affected areas.

In 2001, at the 44th Session of the UNDOC, South Africa called for alternative development for the "Transkei" region as opposed to fumigation.

In October 2001 a UN rapid assessment team visited the area and declared that alternative development was unviable because of the lack of agricultural potential of the region.

This was a patently dishonest and dangerous assessment, given that it implies that the only option available to farmers is to seek employment in urban areas.

South African Human Rights Organisation, the [Legal Resources Centre](#), also visited affected communities during 2015. The organisation offered to draft a pamphlet outlining the rights of the farmers in terms of the spraying but were not prepared to take matters further in terms of litigation. This was a disappointment to the communities.

Together with journalists, activists on the ground have been very busy talking to affected communities over the last few years. Despite widespread suspicion of outsiders, some progress has been made in mobilising communities to create farmers' groups and co-ordinate a representative structure. The energy expended on mobilising farmers should NOT be spent trying to prevent the spraying, it should be spent on mobilising farmers to protect their own interests within a regulated system of Cannabis production that is soon to become a reality in SA.

It is up to the United Nations and the South African government to stop the spraying, not rural farmers with no resources.

Legal Recourse

There are specific laws governing the use of herbicides by the authorities in South Africa. We have taken note of the following and will be using these laws, amongst others, should be forced to contest this issue in a court of law:

- <https://law.resource.org/pub/za/ibr/za.sans.10118.2011.html> - *SABS Standard for the Aerial Application of Pesticides*
 - a. **Refer clause 4** – which deals with the training of pilots – they would need to hold a commercial pilot's licence and a pest control operators certificate.
 - b. **Refer clause 5** – pertaining to licences and certificates (tying in with the above) – a licence issued by the Civil Aviation Authority in terms of the Air Service Licensing Act, 1990, and a certificate in terms of Part 137 of the Civil Aviation Regulations, 1997;
 - c. **Refer clause 10.2** – dealing with Requirements – the chemical advisor needs to compile written recommendations;
 - d. **Refer clause 11.2** - relating to warnings to the Public –this is a target point in our research– the public in the immediate vicinity need to be informed about the spray activity by prior notices posted at relevant sites – we have already asked the public whether they were 'warned' and they have not. We will ask the officials to prove their compliance.
 - e. **Refer clause 12.8** – contains a prohibition on spraying when the wind speed is over a threshold – if there is none mentioned on the approved label then the speed is deemed to be 15 km/h;
 - f. Interestingly, the Standard refers to the 'sponsor' – this being the farmer or organisation who commissioned the application –who is 'this'? – is it the SA Government or the US?
- <http://www.nda.agric.za/docs/Policy/PesticideManag.pdf>
Pesticide Management Policy of South Africa. This Policy is vital to understand where or what Government is moving towards i.e. away from chemical applications in line with our constitutional obligations.
- https://www.environment.gov.za/sites/default/files/gazetted_notices/nemaqa_draft_g32394gen%20964.pdf
NEMA: Air Quality Act – By-Law for Municipalities
Refer section 15 in its entirety and ascertain whether all these checks and balances are in place. eg. Consent of municipality and written notice to residents.

Despite widespread media exposure and even a mention in parliament during 2015, we have no evidence that the South African Police will not be back in a few weeks time. Attorneys acting for Fields of Green for ALL and other organisations have sent a [letter to the SAPS](#), starting the process to obtain a legal interdict to stop the spraying. Their stance remains rigid, prescribing to all the prohibitionist propaganda about both Cannabis and the poison they are spraying. These are the most alarming statements and opinions expressed by the SA authorities during our investigations last year:

- [A Perspective on the Aerial Spraying of the Illicit Cannabis Crop in the Transkei](#)” by Captain J.J.H. Rehder, published in 2002 is the core document the SAPS use to justify their ongoing operations.
- The authorities are using the above document as their Environmental Impact Assessment (EIA). It was written by a police captain, not a qualified Environmental scientist.
- The document outlines their perceived harms of the Cannabis plant, the exact prohibitionist propaganda and misinformation that we are challenging in court.
- The document is outdated in terms of its reference to the “safety” of the glyphosate chemicals used and here we refer to The Institute of Science and Society, Special Report entitled [Why Glyphosate Should be Banned](#). The South African authorities have made no effort to update their information in an age where the latest scientific studies are easily accessible.
- A study of the product insert for [Kilomax](#), the herbicide used in the 2015 spraying, shows that the most basic rules for the use of the product have been broken. The most notable are that the user must “notify all inhabitants in the immediate vicinity of the area to be sprayed and issue the necessary warnings”, “do not inhale the spray mist” and “avoid spray drift onto other crops, grazing, rivers, dams and areas not under treatment.”
All three of these warnings and more have been blatantly ignored because the authorities want to “punish” these farmers – part of a widespread system of moral judgement that underlies Cannabis Prohibition.
Aerial spraying is also an easy way out for the police as many Cannabis fields are in inaccessible areas which would require countless police hours to manage in a humane way.
- There is no evidence of our authorities taking steps to “err on the side of caution” when it comes to the use of controversial chemicals.

- The World Health Organisation has cited the International Agency for Research on Cancer (IARC) as stating that “Glyphosate is probably carcinogenic to humans.” It is important to note here that there is an inextricable link between the WHO and current international protocols prohibiting Cannabis and we note the hypocrisy inherent in this relationship with regards the aerial crop spraying.
- The South African authorities use the UN International treaties to justify their actions.
- Unfortunately we, as an organisation, do not have the resources required to conduct a full enquiry into the environmental impact of the spraying but we have engaged the expertise of Dr Derek Berliner, an ecologist with vast experience in studying Eastern Cape biodiversity.
[An Environmentalist Responds to Dagga Ops](#)”.
- There are a number of laws that come into question around the spraying and a full legal enquiry into the matter may become a reality since we, together with a number of other organisations, [served notice on the SAPS](#) to cease the spraying until such time as a full enquiry has taken place.
This notice was served on 7 January 2016 and the SAPS have acknowledged receipt. We await their reply.
- In April 2015 the Department of Social Development held a [round table discussion on Cannabis](#). Representatives of the Cannabis legalisation lobby were not given a chance to speak and this meeting served only to underline the common perceptions of the harms of Cannabis and re-enforce the outdated policies of the Central Drug Authority.

Desired Outcomes

Fields of Green for ALL has prepared a draft [Desired Outcomes](#) document outlining a plan for simple, enforceable and realistic legal Cannabis. We look forward to using this outline both in court and after we have proved to our government that Cannabis is NOT a “dangerous, dependence producing substance with no medicinal value whatsoever.”

Fields of Green For ALL recognises the need to curb drug abuse that leads to harm of self and others, disorder and lawlessness. However the organization recommends that drug abuse should be treated as a medical problem and not a criminal problem. We submit the following as action items for all member states to consider:

- The allowance for all member states to implement their own legal, regulated Cannabis trade for all applications (Responsible Adult Use – including Traditional & Cultural Use, Medicinal Use, Industrial & Scientific Use).
- Ban on use of herbicides to curb to production of illicit plants in recognition of the fact that these poisons have a detrimental impact on the ecology, economy and otherwise sustainable existence of rural communities.
- Ban on death sentences relating to non-violent drug offences for all member states.
- Decriminalization of all personal drug use/abuse outside the issue of Cannabis and seek to use alternative methods of rehabilitation and reintegration into society.
- International cooperation and resource sharing with regards to scientific studies and ongoing assessment of drug threats and dangers.
- Powerful international bodies to make funding available for independent research by member states with a central open source registry of findings and data.



Post script by the authors:

There are many aspects of the prohibition of Cannabis that keep us up at night but few are as dire and urgent as forced crop eradication. We therefore demand that this practise be stopped immediately, or until such time as the authorities can prove that there is NO danger to the environment, food crops, people or livestock and provide the farmers on the ground with a comprehensive, independent Environmental Impact Assessment.

In February 2014 a bill was tabled in parliament by the late Dr Mario Oriani-Ambrosini who was also one of the architects of our world famous constitution. Faced with terminal cancer and using Cannabis despite its illegality, Dr Ambrosini and his colleagues undertook to pass a bill that would allow the use of controversial therapies for terminal illness. The issue of Cannabis has overshadowed the passing of the bill through parliament and the debates that have been held over the bill only serve to underline our frustration with the political system. Please see our [blog posts](#) on the subject but please also note that these parliamentary discussions were attended by our very own Dr Lochan Naidoo, former head of the International Narcotics Control Board (INCB). Let it be known that Dr Naidoo has private interests in the rehabilitation industry in SA and has been the subject of much criticism from such esteemed bodies as the International Drug Policy Consortium (IDPC) and I quote: "Dr Naidoo remains strongly opposed to change, and is a staunch defender of the international control conventions in their current form. His Foreword (to the Annual Report of the INCB for 2014) provides a narrow conception of human rights, at a time when what is needed is a wide-ranging analysis of the impact of the drug control regime on the human rights of all those coming into contact with it." As you will hear in [sound clips from the parliamentary hearings](#), Dr Naidoo is frustrated that Cannabis prohibition is always on the agenda and is dismissive of the importance of this aspect of the "war on drugs". This is what we are up against. Dr Naidoo's opinions hold weight in SA and we are at the receiving end of his uninformed rhetoric.

As for the prohibition of Cannabis, the root of all this evil, it is an insurmountable task to bring the government officials tasked with implementing the law up to speed with the latest science. All the evidence supporting the complete re-legalisation of Cannabis in South Africa will be led in the Pretoria High Court during 2016 and we know that this evidence is irrefutable and look forward to our government being forced to sit up and pay attention. We also welcome all the support we receive from our friends across the globe and are very grateful for the credibility that our involvement in the UN processes gives to our organisation.

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Concerned activists and journalists.