

THE TIDE EFFECT

**How the world is changing
its mind on cannabis
legalisation**

Boris Starling



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EXECUTIVE SUMMARY

The people of California have just voted to legalise cannabis – a decision which will have immense repercussions both in America and around the world, while efforts are already underway in Canada to legally regulate the cannabis market. The Tide Effect argues strongly that the UK should follow suit, and that the legalisation of cannabis here is both overdue and imperative.

The eight main points outlined in The Tide Effect are:

1. The government strategy is based around three main pillars: reducing demand, restricting supply and building recovery. All three are failing.
2. Regulation is substantially more desirable than simple decriminalisation or unregulated legalisation, because only regulation addresses all four key issues: ensuring that the product meets acceptable standards of quality and purity; removing criminal gangs from the equation as far as possible; raising revenue for the Treasury through point-of-sale taxation; and best protecting public health.
3. The entire language used to address cannabis-related issues needs to change. Language poses a barrier every bit as formidable

as legislation does. The opponents of legalisation have long been able to reinforce their position by using the words of public fear – ‘illegal,’ ‘criminal,’ ‘dangerous,’ and so on. Only by using the language of public health, consumer rights and harm reduction, the same language used about alcohol and tobacco, can we move towards regulation.

4. The scale of a legalised industry will be huge. The US market is estimated to be worth \$25bn by the time of the next election in 2020. A similarly regulated UK market could be worth around £7bn per annum.
5. Legally regulating cannabis will allow long-term studies of its health effects not currently possible. The effects of both tobacco and alcohol are well understood because of the amount of scientific scrutiny brought to bear on them.
6. Many shifts in public policy are prompted, or at least prodded, by an emotional response on the part of the public. Greater efforts must be made to show that the cannabis issue also has a human aspect to which many people respond.
7. Any campaign to legalise cannabis must be multifaceted, involving public support, media analysis and political engagement.
8. Responsibility for cannabis policy should be moved primarily to the department for Health, while the role of the Home Office should change from enforcement of prohibition to enforcement of regulation and licensing.

INTRODUCTION

For decades, cannabis has been discussed largely in terms of criminality, bracketed with heroin and cocaine simply by being on the wrong side of the law. This is, at last, beginning to change. The general acceptance that the war on drugs in its current form has failed has pushed forward initiatives to legalise cannabis in several countries across the world. So far the UK continues to lag behind, still wedded – officially, at least – to the idea that cannabis remains a matter for criminal prohibition rather than public health.

The Tide Effect argues that the legalisation of cannabis in the UK is both overdue and imperative. Attempts to control consumption through prohibition do not work and have not done so for many decades. The health issues surrounding cannabis – for like all drugs, alcohol and tobacco included, it is not harmless, and no serious advocate for legal reform would suggest that it is – are left largely unexplored because the substance’s illegality makes meaningful long-term scientific tests difficult to carry out.

The advantages of a properly regulated market providing tax revenues, strict product parameters and health advice far outweigh the disadvantages of such a move. That cannabis is illegal while alcohol and tobacco are not is an accident of history. Cannabis policy reform is not a daring step forwards so much as a righting of historical wrongs, a reversion to what the drug’s status should always have been, had it been treated impartially.

In *The Tide Effect* I will argue that

- Regulation is substantially more desirable than simple decriminalisation or unregulated legalisation. Only regulation addresses all of these issues: ensuring that the product is safe in strength and purity, removing criminal gangs from the equation as far as possible, raising revenue for the Treasury through point-of-sale taxation and best protecting public health.
- The incarceration of more than 1,000 people is a blight on not only the lives of those in jail but on the lives of their families too.
- A proportion of tax revenues from the sale of cannabis should be invested back into public services, particularly for those most vulnerable to the negative impacts of cannabis use.
- Many shifts in public policy are prompted by an emotional response on the part of the public. Princess Diana shaking the hand of an HIV-positive man in 1987 helped soften attitudes towards AIDS sufferers. Convincing personal stories must play a great part in demonstrating that the cannabis issue also has a human aspect if progress is to be made.
- The United States provides many useful points of comparison, both in the historical treatment of cannabis and the current movement towards legalisation in certain states.
- It is imperative that the entire language around the issue of cannabis changes. Language poses a barrier every bit as formidable as legislation does. The opponents of legalisation have long been able to reinforce their position by using the words of public fear – ‘illegal,’ ‘criminal,’ ‘dangerous,’ and so on. Only by using the language of public health and harm reduction, the same language used about alcohol and tobacco, can we have a proper debate. This is why *The Tide Effect* repeatedly emphasises the need for and concept of ‘regulation’.

The Tide Effect is divided into seven chapters.

Chapter One examines the origins and outcome of the last sustained media campaign for cannabis' legalisation, the Independent on Sunday's efforts in 1997-8.

Chapter Two covers the rise of 'skunk' in both the illegal drugs market and the public consciousness, and asks to what extent it is linked with mental health problems in particular.

In Chapter Three, we ask how, where, when and why cannabis is consumed, and compare this consumption and its health effects with those of alcohol and tobacco.

Chapter Four covers the muddled, inconsistent vacuum at the heart of British government policy on cannabis.

Chapter Five examines policy innovations in several countries which put the UK to shame in terms of both their enlightened attitude and the consistency of their application.

Chapter Six looks at the size and shape of a newly-legalised cannabis industry, and some of the problems which face it.

Finally, Chapter Seven looks at the implications of all the above for the British political scene over the next few years.

1. THE INDEPENDENT ON SUNDAY

Victor Hugo said ‘there is nothing as powerful as an idea whose time has come.’ All political movements’ success depends on many factors outside of their own merits. Those in power have to be receptive, as do the gatekeepers who control access to those in power. Public opinion is crucial, now more so than ever with social media, rolling 24 hour news cycles and immediate reaction, and nothing is as effective at fanning the flames of public opinion as much as outrage and emotion.

With that in mind, it’s instructive to look back at the last major campaign to legalise cannabis in this country: the one begun by the Independent on Sunday newspaper in September 1997. The timing is important, it was less than five months since Tony Blair had been elected Prime Minister with perhaps the greatest surge of popular goodwill in modern British political history. Today, Blair is mostly discussed in almost totally unflattering terms, but back then he was a young, fresh, charismatic and dynamic leader.

Most of all, he seemed in touch with public sentiment. His ‘People’s Princess’ line about Diana, who had been killed only a few weeks

before this campaign began, may now be used as the butt of jokes, but at the time it caught the mood of the time in a way that only a consummate political operator could have managed. ‘Cool Britannia’ was the buzzword for every opinion-former and cultural commentator in town. Where John Major had harked back to a Fifties idyll of cricket on village greens and maiden aunts cycling to church, Blair promised a hip, confident nation for the 21st century.

If ever there was a time and an administration which would put the cannabis issue back on the political agenda, this was surely it: and the Independent on Sunday’s editor Rosie Boycott explicitly played on this regained sense of social tolerance in her rallying cry piece.

‘I rolled my first joint on a hot June day in Hyde Park. Summer of ‘68. Just 17. Desperate to be grown-up... My first smoke, a mildly giggly intoxication, was wholly anti-climatic. The soggy joint fell apart. I didn’t feel changed. But that act turned me - literally - into an outlaw. I was on the other side of the fence from the police - or the fuzz, as we used to call them. So were a great many of my generation.’¹

Although Boycott anchored her own experience in the summer of ’68, her article played on the universal tropes of youthful rebellion and the embracing of a culture as exciting as it was alien, the rueful admission that most teenage ‘first times’ are more notable for what they represent than for the quality of the experience itself.

The article went on to quote William Rees-Mogg’s ‘legendary leader’ in The Times in reaction to the heavy fine given to Mick Jagger for possession of cannabis, where he spoke of breaking ‘a butterfly on a wheel’ and maintained that ‘the law against marijuana is immoral in

1 The Independent on Sunday, September 1997.

principle and unworkable in practice.’

Boycott then pointed out that cannabis’ much-discussed ‘gateway’ status, opening the door to harder drugs, was a matter more of dealers’ demographics than of physiological or psychological dependence. She wrote: ‘If alcohol is a tiger, then cannabis is merely a mouse... The truth is that most people I know have smoked at some time or other in their lives. They hold down jobs, bring up their families, run major companies, govern our country, and yet, 30 years after my day out in Hyde Park, cannabis is still officially regarded as a dangerous drug.... Since my first joint, I’ve smoked a good many more, although I hardly smoke at all nowadays. The habit has given up on me. But I don’t see why people who share my earlier enthusiasm should be branded as criminal.’²

So began the Independent on Sunday’s campaign, endorsed by an eclectic and almost hilariously typical British mix of bigwigs, boffins, broadcasters and businesspeople. Few would have been surprised to see, say, the Marquess of Bath and Brian Eno among the signatories, but there were also neuroscience professors Steven Rose and Colin Blakemore adding some scientific heft, consultant psychiatrists Judy Greenwood and Philip Robson weighing in for the mental health community, Richard Branson and Anita Roddick flying the flag for business, and Burke’s Peerage publisher Howard Brookes-Baker proving that the Establishment was by no means a homogenous or entirely reactionary entity. The generation who had been Sixties rebels with Boycott were now being marshalled by her in support of the cause. They may have been counter-culture once upon a time, but they were emphatically mainstream now: the people who ‘run major companies [and] govern our country,’ as she’d written.

² The Independent on Sunday, *ibid.*

For the next six months, the Independent on Sunday ran a series of pro-legalisation articles and pushed readership over 300,000 as a result. The climax of the campaign was a ‘Decriminalise Cannabis’ protest in central London in March 1998. The newspaper invited people to ‘roll up’ in Hyde Park for a march to Trafalgar Square. Interestingly, given the way in which the US has forged ahead of the UK on the issue since then, the demonstration was seen as groundbreaking by US activists. ‘I cannot conceive of a demonstration like this in America just now,’ said Professor John P. Morgan of the City of New York Medical School. ‘I wish you success. The eyes of the western democracies are upon you.’

Attendance figures were estimated between 15,000 and 25,000 supporters. Before the march, Boycott had emphasised ‘it is important that everyone remembers that we are out to change the law, not break it. We must not provoke police reaction. We want to change the law on cannabis by legal and democratic means.’

Although many of the protesters were openly smoking cannabis, the police let this pass without trouble. Their orders were crowd control and ensuring that the day passed off peacefully, not inflaming the situation by random arrests. Contemporary accounts of the march talk of a friendly atmosphere and the police smiling along with protestors. Boycott, Howard Marks, Paul Flynn MP and Italian activist Marco Pannella all addressed the crowd.

The march seemed not just a success in its own right but a springboard to greater things. As it turned out, however, it was the high water mark of the campaign rather than a stepping stone in the stream of progress towards regulation. Why did this happen? Why did the campaign fizzle out?

There are three main reasons. The first is that Boycott left the

Independent on Sunday not long after the march and to take up the editorship of the Daily Express, a paper as unlikely to call for cannabis regulation as you could find. The extent to which the cannabis campaign had been her baby only became clear in her absence. Without her at the helm, no other senior executives at the Independent on Sunday kept the flag flying.

Secondly, the size of the march was insignificant when compared to turnout for other issues, notably the 400,000 marchers for the Countryside Alliance in September 2002 and the 2 million for Stop The War in February 2003. And even these high turnouts failed to influence the final decision taken on their respective causes.

Finally, the Independent on Sunday's campaign gained no meaningful traction in the corridors of power. Although grassroots support was strong, the campaign lacked the backing of lobbyists, think tankers, special advisers and all the other players in the Westminster circus. Policy changes may not happen even with their input, but they rarely happen without it. It was still Blair's first term in office, and despite his administration's ravenous appetite for reform, Alastair Campbell dismissed Boycott and her fellow Independent campaigners as a 'bunch of old hippies still living in the Sixties'.

2. SKUNK ALERT

One of the most common refrains you hear when discussing the cannabis issue is that cannabis nowadays bears little resemblance to the cannabis that commentators and policymakers smoked back in their university days. Back then it was ‘grass’, ‘herb’ and ‘weed’ – all natural-sounding substances which made you giggly and mellow. Now much of it is ‘skunk’, a substance that is more potent and more dangerous. Skunk is a substance that is often mind-altering rather than merely mood-altering.

Skunk is an independent strain of cannabis with its origins dating back to the 1970s, although the term is now used more broadly to refer to much of the strong cannabis, which accounts for around 80% of the UK market. It’s in that context that I shall use the word throughout *The Tide Effect*: not as a substance different from ‘ordinary’ cannabis, but simply a much stronger version of it.

Cannabis contains many different compounds, but two of the major ones (and the most relevant when assessing the drug’s strength and effect on its users) are tetrahydrocannabinol (THC) and cannabidiol (CBD). THC helps the user get high, whereas CBD reduces feelings of anxiety.

What’s important is not just the amount of THC and/or CBD but also the balance between them. In the past 20-25 years the general trend amongst cannabis producers, especially those using hydroponic techniques, where plants are grown under strong artificial lights in

nutrient-rich liquids rather than soil, has been to increase THC levels while selectively breeding out the more protective cannabinoids. Increased THC levels mean increased potency and increased prices per unit, so there is every incentive for dealers to pursue this path. The higher the ratio of THC to CBD, the greater some scientists believe the risks to the user, particularly concerning dependence, memory impairment and psychosis.³

The question is this: exactly how much stronger than its predecessor is modern-day skunk? The majority of sound scientific estimates seem to settle around a 15-18% THC concentration, around three times what it was in the mid-1990s. However, this can be exacerbated by the often almost total absence of CBD (Prof Curran recommends a minimum CBD content ‘buffer’ set at 4%.)

Skunk’s strength, and the speed of its effects, can catch inexperienced users out, leading to anxiety attacks, projectile vomiting, altered time perception, transient hallucinations and paranoia. More experienced users develop higher tolerance levels and also tend to autotitrate (adjust the amount they smoke to take account of higher strength joints).

But the main reason skunk causes such disquiet is purported links with mental health problems, particularly psychosis and schizophrenia. Professor Sir Robin Murray, Professor of Psychiatric Research at King’s College London, is one of the most vocal campaigners for official recognition of a causal link between cannabis use and mental health. According to Murray ‘If the risk of schizophrenia for the general population is about 1%,’ he says, ‘the evidence is that if you take ordinary cannabis it is 2%; if you smoke regularly you might push it up

3 Shukman, *ibid.*, quoting a study by UCL researchers Dr Tom Freeman and Dr Adam Winstock.

to 4%; and if you smoke skunk every day you push it up to 8%.⁴ At the launch of a medical paper in 2015, he said ‘we could prevent almost one quarter of cases of psychosis if no-one smoked high potency cannabis. This could save young patients a lot of suffering and the NHS a lot of money.’⁵

The emphasis on ‘young patients’ is one shared by many scientists, who stress that a developing teenage brain is far less well-equipped to deal with the effects of skunk than a mature adult one. A 2012 New Zealand study found that people who smoked significant amounts of cannabis as teenagers showed a significant drop in their IQ levels compared both to non-consumers and to those who only began smoking after the age of 18.⁶ And a 2009 report by Professor Stuart Reece of the University of Queensland found that ‘cannabis has now been implicated in the etiology of many major long-term psychiatric conditions including depression, anxiety, psychosis, bipolar disorder, and an amotivational state.’⁷

But this certainty is far from universal across the literature, and Murray’s assertions of causality between cannabis and schizophrenia have been repeatedly challenged. Former government advisor

4 The Independent, November 2012.

5 Proportion of patients in south London with first-episode psychosis attributable to use of high potency cannabis: a case-control study’, *Lancet Psychiatry*, February 2015.

6 The study examined 1,000 people in Dunedin all born in 1972-73. They took IQ and other mental functioning tests aged 13 and again aged 38. Every few years they were also asked about their use of marijuana – though this of course meant researchers relied on subjective reports of marijuana use rather than actual chemical testing. ‘It is not possible to definitively prove causality — that the cognitive decline was specific to exposure to cannabis and not some other unmeasured confound,’ said Nadia Solowij of the University of Wollongong.

7 A. S. Reece, ‘Chronic toxicology of cannabis’, *Clinical Toxicology* 47, pp. 517-524.

Professor David Nutt has written that ‘where people have looked, they haven’t found any evidence linking cannabis use in a population and schizophrenia... What we can say is that cannabis use is associated with an increased experience of psychotic disorders. That is quite a complicated thing to disentangle because, of course, the reason people take cannabis is that it produces a change in their mental state. These changes are a bit akin to being psychotic – they include distortions of perception, especially in visual and auditory perception, as well as in the way one thinks. So it can be quite hard to know whether, when you analyse the incidence of psychotic disorders with cannabis, you are simply looking at the acute effects of cannabis, as opposed to some consequence of cannabis use.

‘The analysis we came up with was that smokers of cannabis are about 2.6 times more likely to have a psychotic-like experience than non-smokers. To put that figure in proportion, you are 20 times more likely to get lung cancer if you smoke tobacco than if you don’t. The other paradox is that schizophrenia seems to be disappearing (from the general population), even though cannabis use has increased markedly in the last 30 years. So, even though skunk has been around now for 10 years, there has been no upswing in schizophrenia.’⁸

More weightily, the New Zealand data on cannabis and IQ is consistent with confounding by socioeconomic status: those who smoked would have ended up with lower IQs anyway.⁹ Social and genetic confounding affects the 2.6 relative risk ratio Nutt’s work returns as well: after accounting for those, standard estimates for England and Wales suggest you’d need to stop 2,800-4,700 heavy cannabis smokers from

⁸ The Guardian, October 2009.

⁹ Rogeberg, Ole. “Correlations between cannabis use and IQ change in the Dunedin cohort are consistent with confounding from socioeconomic status.” *Proceedings of the National Academy of Sciences* 110.11 (2013): 4251-4254. APA

using the drug to prevent one case of schizophrenia.¹⁰ You'd need to stop 1,360-2,480 to prevent a case of psychosis.

Of course, whatever the links between cannabis and psychosis, the question for us is which policies reduce these harms. Some evidence suggests that tighter control on cannabis, perversely, increases problems with psychosis. A 2014 study found that reclassifying cannabis as class C, in 2009, reduced admissions for psychosis, while returning it to class B increased them.¹¹

To assume that increased prohibition is the solution to the health risks of cannabis would be a mistake—precisely the opposite is true. Regulation would allow for both the THC and CBD content of cannabis products to be quantified, quality controlled and clearly communicated to consumers, provided alongside extensive and comprehensive health information which could then be built on by wider and deeper medical research. Skunk would still have harmful effects, as it always will do, but those effects would be both controlled and clearly outlined. At the moment, they are neither.

10 Hickman, Matt, et al. "If cannabis caused schizophrenia—how many cannabis users may need to be prevented in order to prevent one case of schizophrenia? England and Wales calculations." *Addiction* 104.11 (2009): 1856-1861.

11 Hamilton, Ian, et al. "Effect of reclassification of cannabis on hospital admissions for cannabis psychosis: A time series analysis." *International Journal of Drug Policy* 25.1 (2014): 151-156.

3. CANNABIS CONSUMPTION

No report on the issue of cannabis is complete without some idea as to the demographics and motivations of its users. We already know the ‘what’ – 80% of the UK market is classed as skunk, high in THC and low in CBD – but what about the ‘who’, the ‘where’, the ‘why’ and the ‘how’?

Who?

More than 2 million people are estimated to smoke cannabis in the UK, a figure equivalent to the combined total populations of Glasgow and Liverpool. It’s almost three times the number of those who report having taken the next most common illegal drug, cocaine.¹² This means that a minimum of 1 in 15 of the population smokes cannabis—and far more will have tried it at least once in their lifetime.

Where?

The majority of cannabis users come from middle- or low-income backgrounds. Someone earning less than £10,000 a year is almost five times as likely to be a frequent user as someone earning £50,000 or more (6.8% of the total population vs. 1.4%). Cannabis use falls

¹² Advisory Council for the misuse of Drugs report, March 2015. The exact figure quoted is 2.067m.

the higher up the income scale you go, whereas cocaine use rises.¹³ Similar patterns can be seen in the USA, where those with a household income of less than \$20,000 account for 29% of all marijuana use but only 13% of all alcohol use and 19% of the total adult population.¹⁴

These kind of consumers are not in general the kind of people who drive political reform. They are not the ones who write letters to newspapers or opinion columns for magazines: still less do they have access to the official and semi-official bodies responsible for inputs into policymaking. A good proportion of them do not vote regularly. They are, in short, the kind of citizens whom governments can and do forget about.

Why?

People smoke cannabis for any number of reasons, (and the overlap between these reasons and those for drinking alcohol in particular is striking). Those who begin in their teenage years are usually driven by curiosity, rebelliousness, peer pressure or a combination of all three. Those who continue into adult life may use cannabis to relax, to escape, to be sociable, to become intoxicated, to improve their mood, to self-medicate, for pain relief, or because they're addicted and need to satisfy their physical and physiological cravings. It may also be that those with pre-existing mental health conditions such as anxiety, depression, schizophrenia and psychosis are particularly predisposed to using cannabis and other drugs.

How?

13 The Guardian, July 2013, quoting Home Office figures.

14 'Evolution of the United States Marijuana Market In The Decade Of Liberalization Before Full Legalisation', Steven Davenport and Jonathan Caulkins, *Journal of Drug Issues*, August 2016.

European cannabis smokers (including the British) tend to mix cannabis with tobacco much more than North American smokers do, which in turn leaves them more vulnerable to the threats to health posed by tobacco.¹⁵

There's also the perennial question of whether cannabis acts as a 'gateway' drug for other, harder, substances. This is a question that cannot be answered without also factoring in alcohol and tobacco use.

Studies have found that the socio-economic circumstances of young people consuming alcohol and tobacco has more effect on the chances of their future progression to hard drugs than any other factor. The divisions here – the 'life chances' which was one of David Cameron's projects during his tenure in Downing Street - are much more important than the similarities.

A 2010 report by Norwegian researchers suggested the existence of two distinct groups among cannabis smokers: a small group of 'troubled' youths with low self-esteem, poor family relationships and possibly antisocial behaviour problems, and a larger group of better-adjusted teenagers. The first group were more than twice as likely to graduate to hard drugs than the second, irrespective of the amount of cannabis smoked.¹⁶ Other reviews have also found that pre-existing factors about those who choose to smoke cannabis mostly explain the surface-level association between cannabis use and use of other ille-

15 Back in the 1960s and 1970s, European consumers crumbled hashish into cigarettes while Americans rolled 'pure' joints with dried flower. The American joints were therefore smaller than European ones, though both contained roughly equal amounts of herb. The difference persists.

16 Hans Melberg, Andrew Jones & Anne Bretteville-Jensen. 'Is cannabis a gateway to hard drugs?,' *Empirical Economics*, vol. 38, 2010.

gal drugs.¹⁷

The triangular (if largely unspoken) relationship between cannabis, tobacco and alcohol is both multi-layered and critical to this issue. Four in five British adults drink alcohol. One in five smoke cigarettes.¹⁸ That's 10m smokers, of whom around 6m can be classed as 'dependent' on one or more of the following counts: they have their first cigarette of the day within an hour of waking, they find it hard to go a day without smoking, or they want to quit.

The Royal Society for Public Health has ranked various drugs in order of the harms they cause, considered across a broad range of 16 criteria. With a total score of 72, alcohol was deemed substantially more harmful not just than tobacco (26) and cannabis (20) but also than heroin (55), crack (54), methamphetamine (33) and cocaine (27). Alcohol scored particularly badly in terms of economic cost, injury to others, family problems and crime: tobacco's worst rankings were indirect fatalities, dependence, economic cost and direct physical

17 Hall, Wayne D., and Michael Lynskey. "Is cannabis a gateway drug? Testing hypotheses about the relationship between cannabis use and the use of other illicit drugs." *Drug and alcohol review* 24.1 (2005): 39-48.

18 The official figure is 19% of British adults – 20% of men and 17% of women. This means that smoking rates have more than halved since 1974, when 51% of men and 41% of women smoked. The correlation between consumption and social deprivation means that increasing prices are unlikely to be a major cause of this decline. Instead, it almost certainly owes more to (a) greater public health education of the consequences of smoking (b) the gradual phasing out of tobacco advertising (no television commercials from 1965, no still images of people smoking from 1986, and an almost total ban from 2005.)

health harm.¹⁹

But the real and serious harm caused by alcohol and tobacco is largely accepted as the flipside of the pleasure these drugs give. The billions of pounds per annum spent by the NHS might be seen as a price worth paying even if they weren't more than covered by the tens of billions of pounds in duties drinkers and smokers pay.²⁰ When that harm moves from the immediate consumer to those people around them, the state does sometimes act, such as with the banning of smoking in public places under the provisions of the 2006 Health Act.

But this works more often in theory than in practice. In many real world situations, the state either can not or will not act. More than half of all violent crime in the UK in 2015 was alcohol-related.²¹ A similar proportion of child protection cases involve alcohol or other drugs.²² Diagnosed cases of foetal alcohol syndrome have tripled in England since 2000.²³

Barack Obama said 'As has been well documented, I smoked pot as a

19 Taking a New Line On Drugs, Royal Society for Public Health, 2016. The 16 harm criteria are divided into three groups: the harm to users (drug-specific mortality, drug-related mortality, drug-specific damage, drug-related damage, psychological dependence, drug-specific mental impairment, drug-related mental impairment, loss of tangibles, loss of relationships); the physical and psychological harm to others; and the social harm (crime, environmental damage, family adversities, international damage, economic cost and community.)

20 There is also of course the libertarian argument that it is not for the state to tell adults of sound mind what they can and can't put in their body, and that if an adult wishes to do him or herself harm up to the point of suicide then that is nobody's business but theirs.

21 Alcohol Concern statistic.

22 UK Focal Point On Drugs, 2014.

23 The Guardian, June 2014. The apparent increase in cases of course may be down to improved diagnostic techniques as much as greater incidence of the syndrome in absolute terms.

kid, and I view it as a bad habit and a vice, not very different from the cigarettes that I smoked as a young person up through a big chunk of my adult life. I don't think it is more dangerous than alcohol.²⁴

Where hundreds of thousands of balanced studies have been conducted on the health effects of tobacco and alcohol, the literature on cannabis remains skewed towards its most negative aspects for one simple reason: its illegality. Scientists attempting any serious widespread study are often restricted to observational studies, while funding is often difficult to obtain for anything other than research into harms.

We know that a person cannot fatally overdose on pot in the way they can on alcohol. 'You can die binge-drinking five minutes after you've been exposed to alcohol. That isn't going to happen with marijuana,' says Ruben Baler, a health scientist at the National Institute on Drug Abuse.²⁵ 'The impact of marijuana use is much subtler.'

We also know the long-term effects both of heavy drinking and of tobacco smoking. Until scientists have the same opportunities with marijuana, however, a proper assessment of the effects will remain out of reach. Linking cannabis with various medical problems, as Professor Stewart Reece at the University of Queensland has done, is far from proving causality of same.²⁶

²⁴ New Yorker interview, *ibid.*

²⁵ Live Science, January 2014.

²⁶ Respiratory conditions linked with cannabis include reduced lung density, lung cysts, and chronic bronchitis. Cannabis has been linked in a dose-dependent manner with elevated rates of myocardial infarction and cardiac arrhythmias. It is known to affect bone metabolism and also has teratogenic effects on the developing brain following perinatal exposure. Cannabis has been linked to cancers at eight sites, including children after in utero maternal exposure, and multiple molecular pathways to oncogenesis exist.' A. S. Reece, 'Chronic toxicology of cannabis', *Clinical Toxicology* 47, pp. 517-524.

Already it is clear that keeping cannabis illegal merely because it is harmful does not square with the government's policies on alcohol and tobacco. Alcohol and tobacco are legal because they have always been, because any attempts at prohibition would be totally unworkable, and because they generate billions of pounds in revenue for the Treasury every year.

Were cannabis made legal, it would not be long before similar considerations would apply to it too. The British are very good at grumbling about change when it happens and then accepting it as though it had always been thus. The public smoking ban is a good example of this: it caused outcry at the time but was very quickly assimilated. Now the vast majority of people are in favour of it, and no major political party bar UKIP is campaigning to reverse the ban.

Therefore we can see that cannabis:

- is widely smoked throughout the UK: so widely, in fact, as to make a mockery of the fact that it's technically illegal, something which will be explored more fully in the next chapter concerning the current policy vacuum in this country.
- is increasingly a drug of the low- and middle-income classes, which also helps explain why it has fallen off the political radar in the past 20 years.
- is no more a gateway drug to harder substances than alcohol and tobacco, which is yet another reason why it should be treated exactly as those substances are – legalised, licensed and regulated.

4. THE UK POLICY VACUUM

The current policy around cannabis in Britain is a messy patchwork of legislation intermittently enforced. It places political posturing above public health and tabloid values above humane ones.

Cannabis is classified as a Class B drug under the Misuse of Drugs Act 1971. Drugs are classified ‘according to their accepted dangers and harmfulness in the light of current knowledge’, with Class A regarded as the most harmful and Class C the least.²⁷

Governments of whichever political hue use these classes, in theory at least, to help set out their overall drugs policy. Cannabis has always been Class B except for a five-year period between 2004 and 2009 when it was downgraded to Class C before being reclassified as Class B. This was an episode itself emblematic of politics taking and discarding scientific evidence as it saw fit: in other words, of making

27 Class A includes heroin, cocaine, crack, methadone, ecstasy, LSD and magic mushrooms.

Class B includes cannabis, amphetamines, barbiturates, codeine and mephedrone.

Class C includes benzodiazapenes, ketamine and anabolic steroids.

the facts fit the theory rather than vice versa. Jacqui Smith, who was Home Secretary during the reclassification process, has since admitted as much. ‘Knowing what I know now, I would resist the temptation to resort to the law to tackle the harm from cannabis,’ she said. ‘Education, treatment and information, if we can get the message through, are perhaps a lot more effective.’²⁸

Responsibility for developing and enforcing drugs strategy lies primarily with the Home Office, which in itself is a statement of purpose: that this is a matter of public order rather than public health.

The current government strategy is based around three main pillars:

- reducing demand, particularly among vulnerable youths and/or those involved in the criminal justice system.
- restricting supply by tackling the organised crime gangs which supply drugs through importing them from abroad or growing/manufacturing them on British soil.
- building recovery in communities through public health facilities and an attempt to understand and tackle the wider social circumstances which propel people to use drugs in the first place.

Even the most cursory knowledge of British politics is enough to assess that all three of those pillars are built on very shaky ground.

Two million cannabis users alone shows that demand is widespread. The rise in hydroponic factories in the UK, plus well-established criminal routes from the continent (used to smuggle not only drugs but also people), means that law enforcement is always fighting an uphill battle in restricting supply. And the social deprivation wrought

28 Radio Times, November 2012.

on thousands of poorer communities across the land is not something which can be fixed with a few headline-grabbing initiatives.

Criticism of failure across all three of these areas is both wide and deep: it spans all kinds of stakeholders and goes back a long way. More than half the British public believe that current policies are ineffective²⁹ – a figure which rises to three-quarters among MPs alone.³⁰

A Police Foundation report as far back as 2000 concluded that ‘such evidence as we have assembled about the current situation and the changes that have taken place in the last 30 years all point to the conclusion that the deterrent effect of the law has been very limited’ – a point reinforced six years later by the conclusions of the Science and Technology Select Committee: ‘we have found no solid evidence to support the existence of a deterrent effect, despite the fact that it appears to underpin the Government’s policy on classification.’

When a policy of deterrence is no longer seen as providing that deterrence, those in charge of that policy’s enforcement gradually decide that it’s not worth their time and effort to pursue it. This is particularly when their own resources are scarce. Durham Constabulary, for example, have stopped pursuing and prosecuting cannabis users and small-scale growers. Ron Hogg, Police and Crime Commissioner there, said: ‘I believe that vulnerable people should be supported to change their lifestyles and break their habits rather than face criminal prosecution, at great expense to themselves and to society.’³¹

29 YouGov poll, June 2011.

30 Comres poll of 150 MPs, weighted to reflect Commons composition, September 2012. Interestingly, there was no significant difference in opinion according to party allegiance.

31 Daily Telegraph, June 2016.

Nor is Durham alone in this approach: in Cambridgeshire, for example, charges are pursued in only 14% of incidents. But counties such as Hampshire, where 65% of those caught with cannabis end up with a charge or summons, continue to hold a line of serious enforcement seriously applied.

The problems with this system as it stands is twofold. First, it effectively makes the question of cannabis policy a lottery according to which county you happen to find yourself in. This is not the same as the case in the USA, where each state has its own legislature and where drug laws can vary widely from state to state. This is one national law selectively applied, which in itself makes a mockery of that very law.

Secondly, even the most *laissez-faire* constabulary when it comes to individual cannabis users continues to clamp down on the organised crime gangs which supply the drug. ‘The scant resources of the police and the courts are better used tackling the causes of the greatest harm – like the organised crime gangs that keep drugs on our streets and cause misery to thousands of people – rather than giving priority to arresting low-level users,’ said Hogg.³²

One can greatly sympathise with both Hogg’s instincts not to ruin individuals’ lives over something which harms only themselves and with his decision to prioritise finite resources on organised crime – the kind of real-world dilemma which all police commissioners face and which politicians and commentators alike are quick to dismiss.

But the endpoint of this approach is illogical to the point of absurdity. Either a substance is illegal or it is not (or, more precisely, it may be legal in certain restricted circumstances such as for carefully

32 Daily Mail, July 2015.

assessed medicinal purposes, but that is a side point here.) A situation where it is illegal to manufacture and supply something but not illegal to possess it is at best deeply flawed and at worst totally unworkable: the disconnect between the supply side and the demand side is too great. The demand continues to be met by organised crime: both law enforcement and health care remain in limbo.

This de facto decriminalisation is the worst of both worlds. The system as it stands, in general, works as follows. The first time you're caught with a small amount of cannabis, you're given an informal verbal warning. The second time, assuming it's within 12 months of the first, you're given a Penalty Notice for Disorder (PND) and £80 fine which must be paid within 21 days. Neither the warning nor the PND form part of a criminal record. Now the ante is upped. The third time is a caution following arrest, the fourth is a court charge. Both of these do count on your criminal record.

The problem is that even a warning, the most lenient and informal option, counts as a 'recorded crime outcome' – a crime that has been detected, investigated and resolved. So cannabis crimes are a good, easy, predictable way for officers to make their statistics look good.

Every year, 10-15% of all indictable offences brought before the courts are for drug possession. According to the latest figures available, there are 1,363 offenders in prison for cannabis-related offences in England and Wales.³³ Those 1,363 people are costing the taxpayer more than £50m a year, are exposed to other criminals while in jail,

33 Figures as at 30 June 2015, and include all offenders who have had their offence categorised as a 'drug offence' and in which cannabis is explicitly stated in their offence description. They do not include instances where cannabis may have been a contributing factor to the main offence committed. Information contained in May 2016 answer by Under-Secretary of State for Prisons and Probation Andrew Selous MP in response to a question by Jeff Smith MP.

are more likely to be recidivist offenders once out, and will find it harder to get a job in future because they have a criminal record.

The continued concentration of police efforts in poor areas helps perpetuate two forms of inequality. The first is that residents of these areas will continue to regard the police not as impartial upholders of law and order but as agents of an establishment which regards them as at best a nuisance and at worst a threat.

The second is that the kids drawn into the criminal justice system this way – and the criminal justice system is like a lobster pot or the Chelmsford one-way system: it's very easy to get into and very hard to get out of – will continue to have far fewer opportunities for social mobility and life chances.

Would there still be cannabis criminals if the industry was legalised and regulated along the lines of tobacco and alcohol: that is, if it was well-regulated with licensed production and distribution? Yes, there would. But there are three main access points to such industries – production, distribution and possession – and only the middle one of these would afford any realistic opportunity for criminals. Possession would be legal, of course, and production (where most harm to the consumer's health in terms of impurities and toxins can occur) would be economically unviable for the vast majority of criminals.

Take alcohol and tobacco. Yes, there is smuggling in both cases, but in the vast majority of cases the products being smuggled have been legally produced at source and the smugglers are trying to avoid paying tax, which accounts for most of the price (averaging around 80%) of both alcohol and cigarettes in the UK. 'Duty on cigarettes and spirits is consistently increased well above inflation, but the production cost of the goods is low. This makes them a prime target for smuggling,' said Roy Maugham, a tax partner at UHY Hacker Young.

‘A significant number of taxpayers are disinclined to pay the full duty on alcohol and, particularly, cigarettes – which has created a thriving black market. It’s the inevitable result of heaping a heavy tax load onto any product.’³⁴

In 2014-15 HMRC and the Border Force between them seized 5.3m litres of beer, 189,669 litres of spirits and 1.49m litres of wine, almost all of it legally-produced. There is no meaningful large-scale network of illegal alcohol production in the UK for the simple reason that legal, regulated, cheap alcohol is widely available. Why go to the considerable expense and bother of making moonshine when you can just go down to the supermarket and pick up a brand of own-label vodka?

Cigarettes are a slightly different case. There are three main types of illicit cigarettes smuggled into the UK:

- contraband (legally manufactured by major Western companies and paid at lower duty rates in their country of origin);
- illicit whites (legally manufactured in developing economies, such as the UAE’s Jebel Ali free trade zone, to product standards lower than in the West but still acceptable to most Western consumers);
- and counterfeit (illegally made and passed off as genuine).

Of these three, the second category, illicit whites, accounts for the majority of HMRC seizures (more than 6bn cigarettes between 2011 and 2015).³⁵ ‘The illicit whites are now the dominant point of threat. They have none of the quality problems of counterfeit cigarettes,’ said Euan Stewart, deputy director of criminal investigations

³⁴ Accountancy Age, March 2016.

³⁵ Tackling Illicit Tobacco: From Leaf To Light. HMRC report, March 2015

at British customs.³⁶ As with alcohol, there is little mileage for most criminals to go to the bother of full-scale counterfeiting when there are so many easier ways to market.

The crucial aspect to this is that the very issue which causes the smuggling – the tax take – is within the government’s purview. It can intervene on price if need be, all the while mindful of the various stakeholders it must keep happy: the Treasury bean-counters, the shareholders of tobacco companies which themselves pay corporation tax and donate to political parties, the NHS which would prefer that fewer people smoked in the first place, and so on. The government has no such luxury in a business like cannabis while it remains illegal. It can still enforce the law on the smugglers, but it can do next to nothing about the conditions which drive them to smuggle in the first place.

These black markets for otherwise legal products give us a good idea of what we could expect in a regulated cannabis market post-legalisation. Clearly there would be similar issues with smuggling and customs evasion, but these would in turn represent a great leap forward from the current state of the cannabis market.

All the problems of this unregulated market come from a single source: the decision to treat cannabis purely as a criminal matter rather than principally a health one. Then Deputy Prime Minister Nick Clegg said in 2014 that ‘the first step is to recognise that drug use is primarily a health problem. Addicts need help, not locking up. It is nonsense to waste scarce resources on prison cells for cannabis users... (nobody should) go to prison when their only offence is possession of drugs for personal use. Instead these people should receive non-custodial sentences and addicts should get the treatment they

36 Financial Times, September 2013.

need to stop using drugs. These reforms will ensure that drug users get the help they need and that taxpayers don't foot the bill for a system that doesn't work.'

Both the Royal Society for Public Health (RSPH) and the Faculty of Public Health (FPH) agree. In Their 2016 report, called *Taking A New Line on Drugs*, transferring drugs policy from the Home Office to the Department of Health is advocated;

*'The time has come for a new approach, where we recognise that drug use is a health issue, not a criminal justice issue and that those who misuse drugs are in need of treatment and support, not criminals in need of punishment,' says RSPH chief executive Shirley Cramer. 'For too long, UK and global drugs strategies have pursued reductions in drug use as an end in itself, failing to recognise that harsh criminal sanctions have pushed vulnerable people in need of treatment to the margins of society, driving up harm to health and wellbeing.'*³⁷

Transferring principal responsibility from the Home Office to the Department of Health³⁸ would also take away one of the arguments used by opponents of reform: that those who want cannabis legalised only do so because they erroneously believe it harmless. This is, of course, bunkum. It is precisely because cannabis can cause harm that it needs to have appropriate regulations and controls applied. Of course cannabis isn't completely safe. No drug is completely safe; no human activity, for that matter, is completely safe. But making it illegal doesn't make it safer. The Department of Health already provides

37 The RSPH and FPH campaigned for a sugar tax and public space smoking restrictions before they were introduced, so are a proven influence on policy

38 The Home Office would also clearly be involved, as it would assume responsibility for the consumer aspects of a regulated industry, as it is with alcohol licencing and regulation.

information on the dangers caused not just by alcohol and tobacco but by sugar too. They are best placed to put cannabis in its context.

The time for a root-and-branch reform of UK cannabis policy is long overdue. Current policy emanates from the wrong government department and is aimed at the wrong kind of people. It is misconceived from start to finish. In the next chapter, we explore some of the policy innovations taking place in several other Western countries which we hope will pave the way for the UK to follow suit in one form or another.

5. GLOBAL POLICY INNOVATIONS

November 8th, 2016 saw Donald Trump win the most divisive presidential election for decades. Yet the focus of many cannabis activists was not so much on 1600 Pennsylvania Avenue as on an address almost 3,000 miles further west: 1526 H St in Sacramento, official residence of the Governor of California.

California was one of four states which voted to legalise cannabis that day. With due respect to Maine, Massachusetts and Nevada,³⁹ the Golden State – the sixth largest economy in the world – was the battleground for campaigners on both sides of the issue. ‘If there’s one thing we agree on with legalisation advocates, it’s that California is important,’ said Kevin Sabet, head of the anti-cannabis group Smart Approaches to Marijuana (SAM).⁴⁰

The repercussions of the vote will be immense. This win for the legalisers ‘could tip the balance in favour of legalisation on the fed-

39 The issue was put to the electorates of five states in all: Arizona voted not to legalise.

40 Los Angeles Times, August 2016.

eral level and usher in a social revolution across America that the Woodstock generation could only dream of.⁴¹ ‘Once California legalises marijuana, I think the rest of the country is going to follow,’ says Congressman Eric Swalwell.⁴²

Had the legalisation campaign lost, however, any national groundswell towards widespread legalisation would have been stopped in its tracks. Before the vote, Aaron Smith of the National Cannabis Industry Association (NCIA) had said: ‘If we don’t win California and at least half of the other states in play right now, the public narrative around our industry will dramatically change for the worse and for quite some time, setting us back a decade or more.’⁴³

California has therefore followed where states such as Colorado have already been:⁴⁴ marijuana has been legally regulated there since 2013, and the state now has more retail marijuana stores (424) than it does outlets of Starbucks (322) or McDonald’s (202).⁴⁵

In general, legalisation in Colorado has been a success. 53% of Colorado residents think legalisation has been a good thing overall, with 39% considering it bad.⁴⁶ Marijuana-related crimes account for less than 1% of all crime recorded in The United States. Both teenage consumption of cannabis and cannabis-related crime in the state capital Denver has fallen, with cannabis-related crimes now account-

41 The Times, leading article, August 2016.

42 San Jose Mercury News, July 2016.

43 San Francisco Chronicle, June 2016.

44 Cannabis is currently legal in four US states – Alaska, Colorado, Oregon and Washington – as well as the District of Columbia.

45 Figures from Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA) 2016 report and correct as at January 2016.

46 Survey carried out by Quinnipiac University in November 2015.

ing for less than 1% of all crime recorded in Denver.⁴⁷ The burgeoning cannabis industry has created both jobs and tax revenues (\$70m of the latter in 2015). The city of Aurora takes \$4.5m of that tax revenue, much of which it redistributes to programmes such as the Colfax Community Network which helps low-income families to live in motels, apartments and provides food, clothing, hygiene products and nappies. ‘Marijuana legalisation in the Rocky Mountain state appears a distinct improvement on the costly morass of prohibition. Britain should pay close attention.’⁴⁸

What Colorado and California have done reflect a wider paradigm shift: a recognition that the ‘war on drugs’ that has been fought for close to half a century has failed. It has failed to prevent people using drugs. It has failed to prevent people manufacturing drugs. It has failed to prevent crime, corruption and death on an industrial scale.

The old prohibitionist model, enshrined and entrenched in three separate UN treaties (1961, 1971 and 1988) and incorporated into the domestic laws of more than 150 countries, is crumbling. The United Nations Office on Drugs and Crime (UNODC) has acknowledged the ‘growing recognition that treatment and rehabilitation of illicit drug users are more effective than punishment.’⁴⁹

The World Health Organisation (WHO) agrees that prohibition has led to ‘policies and enforcement practices that entrench discrimination, propagate human rights violations, contribute to violence related to criminal networks and deny people access to the interventions they need to improve their health.’⁵⁰

⁴⁷ Denver Post, February 2016.

⁴⁸ The Times, August 2016, *ibid.*

⁴⁹ World Drug Report, 2012.

⁵⁰ World Health Organisation, Executive Board release 138/11, January 2016.

Now more than 90 countries have at least begun to introduce harm reduction policies alongside those aimed at enforcement and punishment. Some of these countries have had such policies in place for many years now: within the EU alone, for example, the Netherlands has effectively decriminalised cannabis since 1976 and Portugal since 2001.

But decriminalisation is not enough. Legalisation and regulation are what is needed, so it is three countries – Canada, Germany and Uruguay – which are of particular interest in the context of this report. All three are currently feeling their way towards full or partial legalisation, and their cases will give immediate and relevant pointers as to what kind of future a cannabis-legal UK could anticipate.

CANADA

Now that Barack Obama is leaving office, Canadian Prime Minister Justin Trudeau is committed to changing Canadian laws on cannabis and has pledged to begin legislation by spring 2017, though he's aware that his country's large and solid bedrock of conservative citizens (a) prefer a slow and steady approach rather than a zealous headlong rush, and (b) place great emphasis on personal safety. Hence his focus on strict regulation.

He told CTV news;

'The reason why legalising marijuana is the right step for us, is because of two things. One, it will make it harder for young people to access marijuana, because whatever you say about marijuana compared to alcohol or cigarettes, we know that the impact on the developing brain is something we need to prevent. Right now, young people have easy access. Controlling and regulating it will make it more difficult for them. Two, we need to remove the criminal element – street gangs, the organised crime – from the sale of marijuana

na. Regulating it and controlling it will do that. Decriminalising does absolutely nothing on either of those two things. If you decriminalise it, you make it easier for kids to access it. Decriminalise it, you continue to have organised crime controlling marijuana. That is counter to why we want to do it. That is why decriminalisation has never been interesting to us.⁵¹

He has also emphasised that *'pot is still illegal in this country and will be until we bring in a strong regulatory framework.'*⁵²

Trudeau is a smart enough operator to know that the scale of what he faces is enormous. He will have to navigate waters which are not just uncharted but treacherous, teeming with stakeholders – politicians, lawmakers, citizens, consumers, healthcare, businesses – whose competing desires and demands he must somehow fashion into a working and workable compromise. He has no pre-existing template to work from. This is not taking a country back to a previous legal status, as it was in the US with the repeal of Prohibition (itself famously enshrined in a constitutional amendment which overrode one of its predecessors). It will probably take him two or three years at least, perhaps longer, to move from blank slate to completed legislation.

If the eyes of British cannabis campaigners and advisers are not on Trudeau during this process, they should be. For all our attachment to the 'special relationship' with America and for all our geographical, historical, commercial and social links with Europe, we've always had more in common with the Canadians than perhaps we realise. What Trudeau can and cannot manage will give us lots of pointers, if only we are aware enough to see them for what they are.

⁵¹ Interview, August 2016.

⁵² Interview, Vancouver News 1130, March 2016.

GERMANY

Germany is on the brink of fully legalising cannabis for medical purposes, including the treatment of cancer, glaucoma, HIV-related illnesses, Hepatitis C, neuralgia, Parkinson's and other serious conditions, having had extremely limited access for a small number of specifically exempted people since 2009. Cannabis used for such purposes will in certain circumstances be covered by public health insurance and available on prescription from pharmacies.

The road to even this limited reform has been a long and winding one, and driven far more by activist groups such as Schildower Kreis and Deutscher Hanf Verband than by politicians. Interestingly, given the way in which many public issues are crystallised in a single incident or image, the case of Michael Fischer was a prime mover in the shift towards medical legalisation.

Fischer is a multiple sclerosis sufferer who in April 2016, after a decade of legal battles, finally won the right to cultivate his own cannabis for medicinal purposes. Although his victory was only a personal one, it paved the way and provided a precedent for similar court cases, which in turn has helped persuade the government to bow to the inevitable.

Since it will take time for Germany to grow enough cannabis of its own to meet the needs of this new market, three Canadian companies – Tilray, Tweed and Canopy Growth – have signed deals to supply cannabis in the interim. This in itself is testament to the growing internationalisation of the cannabis industry, which will be explored more fully in Chapter Seven.

However, full legalisation remains some way off. Marlene Mortler, Germany's federal drug commissioner, maintains that 'legalisation for private pleasure is not the aim and purpose of this [legislation]. It

is intended for medical use only.⁵³ This is consistent with Chancellor Angela Merkel's long-held position on cannabis. 'Through legalisation the threshold for obtaining cannabis would be lowered even further, and we hold – yes – the negative side effects of cannabis are so dangerous that one should not do this. After all, there are two million people who consume cannabis in this country and that is already much too much. Thus in my opinion, we should not legalise cannabis in general.'⁵⁴

As we will see in Chapter 7, Chancellor Merkel's position is very much akin to that of Prime Minister Theresa May. But both women must also know that in politics, the thin end of the wedge is sometimes all that is needed to prise open the door. Take a step, demonstrate that it works, press for the next step, and so on.

Perhaps medicinal legalisation will prove a useful first step on the road to full legalisation in both countries. (Colorado legalised medical marijuana between 2008 and 2013 before expanding the licence across the board). Indeed, in the same week as California voted to regulate adult use of cannabis, the coalition of parties that govern Berlin announced plans to pilot a programme of "controlled distribution of cannabis to adults".⁵⁵ A sign that as the whole of Germany moves towards medical access, further reforms are already underway at a local level. Perhaps a British version of Michael Fischer, someone in unimaginable pain who seeks only an alleviation of their agony and does so with articulacy and stoic humour, may help crystallise the emotional side of the cannabis argument as well as the intellectual one.

53 CNN, May 2016.

54 YouTube video, 2011, as part of the Direktzu programme allowing public questions to the Chancellor's office.

55 Deutsche Welle, November 2016.

URUGUAY

Uruguay was the first country to fully legalise the sale and production of cannabis, which they did in December 2013. The move demonstrated the power of a concerted middle-class movement, as it was such consumers who ran a decade-long campaign to persuade the government of the benefits of legalisation.

Now Uruguayans can, in theory at least, obtain their cannabis one of three ways:

- From home growing (each person is allowed up to six plants)
- Through cannabis clubs (effectively private collectives where members can grow and smoke cannabis but may not sell it)
- Through pharmacies at a set price of around a dollar per gram.

However, there is a fourth way, and it's the same as it's always been – the black market. That's because progress to a fully-realised and regulated market has been and continues to be slow.

Uruguay is aware that everyone is watching to see how this great social experiment plays out, and there are at least as many people wanting it to fail as are rooting for it to succeed. 'We are doing something completely new for our country and the entire world,' says Milton Romani Gerner, secretary-general of Uruguay's National Drug Board. 'It's up to our model to overcome prohibitionist attitudes from various agencies and institutions, and general mentalities, that do not accept change.'⁵⁶

Former president José Mujica, the architect of the law, repeatedly emphasised the need for caution. 'We are not just going to say, 'hands off and let the market take care of it,' because if the market is in

⁵⁶ Interview with Foreign Policy, March 2016.

charge, it is going to seek to sell the greatest possible amount.⁵⁷ The law's main intention, he adds, was always to seize the market from illegal drug dealers, not encourage people to smoke weed.

This sense of caution has inadvertently led to logistical logjams. The process for registering pharmacies has been so laborious that not a single one has yet opened, even though they were always intended to be the chosen route to market for the majority of smokers. So many points have still to be agreed, such as price controls, safety measures, precise legal obligations and so on. Every question seems to beget several more. And the new president, Tabaré Vázquez, is much less of a risk-taker than Mujica was.

For the time being, therefore, Uruguay remains stuck in limbo, half-way between the old failed South American prohibitionist policies and a brave new world of a vibrant, successful cannabis economy. Both its successes and its failures provide lessons for other countries. 'We are providing evidence for something that doesn't yet exist,' Romani said. 'But in our favour we have the painful and overwhelming evidence of prohibitionist policies being the total failure of an absurd war.'⁵⁸

From these examples, it's clear that the tide effect is both underway and unstoppable, even if its progress will be anything but linear. The important thing is that it is happening, and the more it happens the more it will continue to happen. As Mike Power, author of *Drugs Unlimited*, said: 'from British Columbia to Berlin, from Oregon to

57 Interview with AFP, July 2014. Mujica also emphasized that this was a paternalistic attitude a long way from American-style notions of freedom and personal choice. 'If I have to take a drug in order to be free, I'm screwed. You can't buy freedom in little jars. That's a brutal dependency. If I'm dependent, I'm not free.'

58 *Foreign Policy*, March 2016, *ibid*.

Montevideo, you can sense a distinct whiff of change that is more pungent than protest, and headier than the most abstract theory. We are witnessing a radical, global reboot of cannabis regulation whose potency and novelty is mirrored perfectly by its accompanying industrial and cultural revolution.⁵⁹

59 Mike Power, *The Green Screen*, volteface.me, July 2016.

6. THE SHAPE OF THE INDUSTRY

The majority of new industries begin at a great advantage over the lawmakers in charge of regulating them. The industry's practitioners understand their businesses' strengths and flaws better than the regulators, and can therefore minimise any negative effects of regulations. A newly-legalised cannabis industry is a different kettle of fish, however. It is already used not just to government regulation but to government prohibition: laws both too numerous and too prescriptive rather than the opposite.

There are three main aspects to any assessment of how this new industry will shape itself: the size of the sector, the scope of the sector, and the stresses which the sector will face.

THE SIZE OF THE SECTOR

If California votes to legalise cannabis this November, analysts are expecting a 'green rush'. 'We're looking at the total market for legal cannabis in California to grow to \$6.6bn by 2020,' said Troy Dayton, chief executive of research firm Arcview.⁶⁰ And that's just one state, albeit the biggest one. Arcview reckons that by the same 2020 date the entire annual American market could be worth almost \$25bn.

⁶⁰ CNBC, July 2016.

Clearly such figures can only at this stage be rough estimates. Ask a dozen analysts and you'd get a dozen different answers, depending not just on the unknowns (how many other states would follow suit towards legalisation, how fast they would do so, how much the price of marijuana would move and in which direction), but also on what those analysts chose to include in and exclude from their calculations (are they counting all the ancillary industries which would spring up around a legal marijuana industry? Are they considering the effects of rising tax revenue and lowered law enforcement costs?) But whatever the figure, it's safe to say one thing: it'll be big.

The potential UK market is obviously a fraction of the size of the US one, and since we are not as far down the line towards legalisation, estimates are limited. But we can still make some educated guesses.

A 2011 study by the Independent Drug Monitoring Unit (IDMU) estimated that the UK cannabis economy would be worth approximately £6.8bn per annum – just under half the size of the British tobacco industry at the time, and more or less exactly the same as Arcview's projections for California.⁶¹

The Institute for Social and Economic Research (ISER) has modelled three scenarios for a legalised and regulated market in England and Wales alone, depending on both the amount of cannabis sold and the average percentage of THC in that cannabis. It suggests that just the aggregate annual government benefits – that is, not including direct sales revenues, which will form by far the largest part of any assessment – would be between £750m and £1.05bn.⁶²

61 Quoted by Nick Chowdrey, *vice.com*, March 2014.

62 Licensing and regulation of the cannabis market in England and Wales: towards a cost-benefit analysis. Mark Bryan, Emilia del Bono and Stephen Pudney, ISER, 2011.

Pricing is obviously going to be a key factor in the value of the industry. Both available data and common sense suggest that cannabis prices will fall post-legislation (though in several newly-legalised markets there has been an initial price rise while supply volumes, customer demand and distribution networks sort themselves out and become used to the new paradigm. After that, prices fall.)

In Washington state, where cannabis is now legal, prices are falling by as much as 25% per year.⁶³ ‘It’s just a plant,’ said Professor Jonathan Caulkins of Carnegie Mellon University. ‘There will always be the marijuana equivalent of organically grown specialty crops sold at premium prices to yuppies, but at the same time, no-frills generic forms could become cheap enough to give away as a loss leader – the way bars give patrons beer nuts and hotels leave chocolates on your pillow.’

Falling prices are obviously good news for the consumer but also for the police who will find fewer people seeking out black market dealers. They’re not such good news for the taxman. Whether they’re good news for the business owners depends on the trade-off between price point and units sold. In order to maintain an equilibrium, governments may intervene to keep the price around a certain level, either directly (through price controls) or indirectly (sales tax increases). And if they push these prices too high, then they risk letting the black market dealers back in the game again. They have to perform the regulatory equivalent of keeping the bath level with the taps running but the plug out.

THE SCALE OF THE SECTOR

63 Data from Washington’s Liquor and Cannabis Board, aggregated by Steve Davenport of the Pardee RAND Graduate School and Professor Jonathan Caulkins of Carnegie Mellon University. Quoted in the Washington Post, May 2016.

When people think of a regulated cannabis industry, they tend to think of the people who grow it. The people who distribute it and the people who sell it. Farms, vans and shops. This triad will indeed form the backbone of the industry, providing many thousands of jobs in the process.

But there are scores of other job opportunities available too. Who manufactures the high-intensity grow lights for hydroponic farms? Who makes the pipes and vaporisers through which many people will consume their cannabis? Who does the growers' advertising and marketing? Who organises the cannabis equivalent of wine tasting tours for all those thousands of people who come from out of state? Who designs the cellphone cases, T-shirts, notepads and paperweights which can now be emblazoned with company logos? Who writes books or makes programmes about the perils of this new industry?⁶⁴ Who writes the business plans and assesses commercial loans? Who puts up the venture capital? Who writes and operates the software programmes which optimise growing methods, track deliveries and maintain real-time stock inventories?

In the last instance at least, we already have the answer. In June 2016, Microsoft announced its partnership with the software company Kind Financial, which 'provides 'seed to sale' services for cannabis growers, allowing them to track inventory, navigate laws and handle transactions all through Kind's software systems. The partnership marks the first major tech company to attach its name to the burgeoning industry of legal marijuana.'⁶⁵

64 In September 2016, MTV launched the comedy show 'Mary + Jane', which follows the adventures of Jordan and Paige – 'two best buds with the best bud' – as they struggle to get their weed delivery business off the ground.

65 The Independent, June 2016.

Most things which Microsoft does are news one way or another, and this is no exception. For a software giant of such size and reach to invest in the industry – albeit in a company providing services at one remove to the frontline manufacturers and vendors themselves – represents an enormous vote of confidence in the long-term viability of the legalised marijuana sector.⁶⁶

Other investors have been less sure: venture capitalist Zach Bogue, for example, has likened it to ‘investing in the porn industry. I’m sure there’s a lot of money to be made, but it’s just not something we want to invest in.’⁶⁷ But Microsoft is so iconic that their vote of confidence may prove a self-fulfilling prophecy, not just in terms of attracting investors but also influencing legislation.

‘Microsoft has a leviathan [lobbying] effort in Washington [D.C.],’ says Allen St. Pierre, executive director of the National Organization for the Reform of Marijuana Laws (NORML). ‘Focusing in on these commerce reforms, for example to allow banks to handle this trade - they lobby hard for that stuff on the Hill right now, and to have a Microsoft weigh in saying ‘we want to be part of that commerce’ can only buoy those efforts.... Ten years ago, 20 years ago, if you were saying, I have a software and I’m hoping to track marijuana sale, you and I would be in a RICO conspiracy. So that speaks to how much has changed.’⁶⁸

66 In one respect, Microsoft is better suited to such investment than other global tech galácticos. It is headquartered in Redmond, WA: i.e. in a state where cannabis is already legal. Apple and Google, on the other hand, are based in California.

67 The Independent, June 2016, *ibid*. Perhaps ironically given Microsoft’s involvement, Bogue is married to Marissa Mayer, CEO of another tech giant – Yahoo!

68 The Independent, June 2016, *ibid*

Even if the likes of Microsoft might not touch the mechanics of the actual frontline industry for now, the way those mechanics play out will obviously be crucial in helping structure the industry. There are several different possible models, and the extent to which each is applied (and mix-matched with others) will vary depending on location and jurisdiction.

In terms of production, there are three main possibilities (and, as Uruguay shows, these can exist in parallel):

- Large-scale licensed production for retail sales. A newly-created government authority oversees regulation. Producers have to satisfy stringent regulatory conditions before being granted a licence. Producers may or may not be: restricted to operating within their country of origin; limited in the volume they could produce; banned from vertically integrating with retailers. Possible application of the ‘seed to sale’ model (where individual cannabis plants are tracked through every stage from growth to sale) to minimise unlicensed sales and tax avoidance.
- Small-scale licensed production for members-only ‘cannabis clubs’.
- Unlicensed home growing for personal use, but with a limit on the number of plants per individual (existing limits in various jurisdictions vary from four to nine) and with enforceable penalties for breaching. The better (and more affordably) the large-scale licensed market works, the smaller the home growing sector: most users default to the convenience of retail.

As for vendors, they ‘have a crucial role in any cannabis regulation model. Firstly, they act as gatekeepers of the market, entrusted with exercising regulatory access controls, enforcing restrictions on sales relating to age, intoxication or other criteria. Secondly, the vendor-

customer interaction provides a vital opportunity for targeted public health interventions, educating cannabis users about the risks of different products, harm minimisation, responsible use and where to get help or further information.⁶⁹ In terms of sales, there are again three main possibilities, and again they can work concurrently with each other:

- Premises with consumption on site. This may be along the lines of the Dutch ‘coffeeshop’ model, or closer to the concept of the ‘cannabis club’ outlined above. Staff need to be well-trained: not merely in retail and health knowledge, but also in their ability to care for those customers who need it and to refuse service to those underage and/or obviously intoxicated already.
- Physical premises with consumption off site, such as a pharmacy. Staff requirements are broadly similar to those for establishments offering on-site consumption.
- Online and other postal/courier-based delivery networks. There’s a certain symmetry in this – the very first item ever bought online was a bag of cannabis back in 1971 when students at MIT agreed the deal with their counterparts in Stanford over the Arpanet network. And much of the trade in illegal cannabis has so far been conducted via darknet sites such as the Silk Road.⁷⁰ Online retail sites such as amazon and eBay are some of the internet’s marquee brands. In many ways cannabis is a perfect product for online distribution. It’s small, light and hard to damage

69 A framework for a regulated market for cannabis in the UK: Liberal Democrat report, March 2016.

70 Now in its third iteration, Silk Road 3.0, following law enforcement shutdowns of Silk Road and Silk Road 2.0

in transit.⁷¹ Online user reviews are vital tools for undecided or adventurous consumers. The delivery network means the recipient doesn't even need to leave home and is therefore less likely to, for example, drive under the influence.

THE STRESSES WHICH THE SECTOR WILL FACE

On a micro level, each individual company will be different: and as in any industry, particularly any new industry, there will be many more failures than successes.

Start-up costs are high: licensing fees, equipment costs, rent and tax liabilities can run into seven figures all told. Bank loans may be charged at high interest rates due to the uncertainty of the sector's prospects, and as things stand in the US cannabis businesses are also ineligible for federal bankruptcy protection. 'The sheer amount of knowledge you have to have to make legitimate investments is huge,' says Rob Hunt of private equity firm Tuatara Capital⁷² – and without that knowledge, your money may well go up in smoke.

On a macro level, it would be useless to suggest that any legalised cannabis industry modelled even vaguely along the lines of the alcohol and tobacco industries will not be prone to taking on their kind of troubles too.

Any commercial entity has at base only two obligations: to maximise profits, and to remain within the law. Maximising profits means

71 This is of course also why drug dealers have been so attracted to skunk – higher concentrates mean less bulk, so they can carry/smuggle more in one go. A similar pattern could be seen during Prohibition in 1920s America, when the sale of spirits while beer sales fell: beer was too bulky for bootleggers and spirits offered greater profits.

72 BBC news website, June 2016.

increasing sales, cutting costs, or raising prices. Increasing sales means increasing consumption. Increasing consumption means persuading new users into the marketplace and/or persuading existing users to consume more.

This is at odds with public health exigencies, especially since both the alcohol and tobacco industries (neither of them strangers to making the science fit their agenda) make as much of their profits from a minority of heavy or problematic consumers as they do from the much larger group of casual punters. ‘We’re going to see a lot of people struggling with marijuana dependency and wonder why we thought it was smart to create another industry that’s going to shape public policy around a dependence-inducing intoxicant,’ says Caulkins. ‘And 25 years later, people are going to look back and say, ‘What idiots you were; what were you thinking?’”

Perhaps alcohol, tobacco and pharma will object to the new kid on the block and try to muscle cannabis into the margins. Or perhaps they will not only welcome the newcomer but co-operate with it in order to improve their own businesses.

‘It may not be literally true that big tobacco companies will be the companies that end up selling marijuana,’ says Caulkins. ‘But you should expect the companies to have that kind of approach. It’s entirely possible that even if it’s a homegrown, new company that emerges in the marijuana industry, they may hire the VP of marketing from a tobacco company.’⁷³

The majority of cannabis campaigners are probably instinctively wary of big business. This is a matter of great personal import to people, and few of them want to see the soul of it sucked out by venture

73 Carnegie Mellon Today, February 2016.

capitalists. But even corporate greed would be a quantum improvement on what we have right now in the UK.

7. POLICY IMPLICATIONS

‘Drugs policy has been a no-go area for most politicians, with a few notable – and brave – exceptions. Taking a tough line, calling for a war on drugs and stiffer penalties has been the stock in trade of politicians of both major parties. Proposals to liberalise the law lead to accusations of being ‘soft on drugs’ and cost votes.’

- David Cameron, May 2002.

If this last chapter had been written on 22nd June 2016 rather than in early October, it would have read very differently. David Cameron, as socially liberal a modern-day Tory leader as one could imagine, was still Prime Minister. Both the opinion polls and the bookies had Remain to win the EU referendum, which would put the issue of Europe to bed for at least the foreseeable future. Cameron would have had plenty of time to concentrate on his much-vaunted ‘life chances’ agenda before stepping down in good time for the 2020 election. Perhaps cannabis reform would even have ended up alongside gay marriage in his legacy.

All that is now history. If you had gone through a likely list of candidates for Prime Minister as Cameron stood outside Number Ten and announced his resignation, Theresa May would have been very near, if not at, the top.

Her tenure as Home Secretary proved her a formidable tackler of injustice when the issues move her, as they did with modern slavery and FGM. But cannabis has never been remotely on her agenda,

except in terms of maintaining the status quo. Nick Clegg called her ‘spectacularly unimaginative’ on the issue and accused her of trying to alter a 2014 Whitehall report which concluded there was no link between tough laws and the levels of illegal drug use, ‘arguing that there would be no change whatsoever as long as she led the Home Office’.⁷⁴

It seems extremely unlikely that anything will change now Mrs May has moved from Marsham Street to Downing Street. This is not just down to her intransigence on the issue, but also because the referendum which turfed her predecessor from office has also ensured that the issue of Brexit will dominate the next few years of British politics to an extent rarely seen on a single issue (at least outside wartime.)

Three separate departments fighting within themselves, let alone with each other, as to who does what. Endlessly complicated negotiations requiring both steely overall control and nitpicking of the finest details. Both a media and a population bitterly divided on the outcomes and not shy of offering their opinions. At times it will feel as though there’s no room for any other aspect of public discourse to get a look-in. The only parties really pressing for cannabis reform are the Liberal Democrats and the Greens, but in parliamentary terms they have very little representation. More generally, Britain (and particularly England) is a rather conservative nation. There is little or no mileage for most MPs to press the cause of cannabis reform, since it will win them no support and may indeed cost them some.

Therefore the campaign for cannabis must be fought on other fronts – in particular, through the tide effect of what is happening in other countries. Change can come from without as well as from within. A groundswell of reform across North America will be increasingly

74 The Guardian, April 2016.

hard to ignore, especially if the benefits to public health, law enforcement and taxation revenue are demonstrably positive.

This will not happen overnight, of course. Even the most optimistic reform advocate doubts that Trudeau can push legislation through in Canada before 2019 at the earliest. It will also take at least two or three years for the full effects of Californian legalisation to filter through in terms of other states following suit in any large numbers. Both timescales are consistent with the proposed final date for Brexit and a possible subsequent realignment of political priorities.

When the question of cannabis law reform does again cross the desks of UK parliamentarians, it must be made clear to them that the status quo is failing, and what solutions the examples of Canada and US states have to offer to remedy this failure – those laid out here in *The Tide Effect*. Rather than inching towards reform by a muddle of police-led decriminalisation efforts, legal regulation of cannabis must be sought outright. The illegal market can be left no space in which to operate, and a UK-based cannabis industry must be allowed to establish itself under a new regulatory framework to replace the illegal trade. Revenue from taxation of the legal market will benefit the Treasury, although this benefit must be secondary to ensuring the legal market is placed at a competitive advantage to the illicit alternative.

Principle responsibility for cannabis should move from the Home Office to the Department of Health, where the terms of the regulated market can be set to an agenda that protects children and public health, targets crime and safeguards consumer rights. The role of the Home Office itself in cannabis policy must pivot from enforcer of prohibition, to that of a regulatory and licencing body, as it is in the case of alcohol. This change in role necessitates a change in the language and thinking used to refer to cannabis. That of public fear –

‘illegal’, ‘criminal’, ‘dangerous’ – must be replaced by the measured language of regulation and harm reduction.

Any moves towards the legalisation of cannabis will be slow and painstaking in the making. But what looks impossible today seems inevitable in retrospect. Imagine some years from now, when you can walk into a cannabis store the same way you do into an off-licence today, and you take one as much for granted as the other. You peruse shelves of cannabis products arranged by potency, taste, geographical origin, manufacturer and so on. Those products are labelled with comprehensive health information, most obviously the respective THC and CBD percentages – no product can be sold without those clearly on view.

The staff answer any questions you have and give you recommendations – staff picks, perhaps, in the way Waterstone’s assistants flag the books they love. Your fellow shoppers are – well, they are as diverse and different as humanity itself. The woman over there is a teacher whose PSHE classes cover cannabis, tobacco and alcohol. The man a few paces along from her is a taxi driver, though he’d no more take cannabis before starting a shift than he would have a drink, as either would imperil his licence and neither is worth the risk. On the other side of the shop, the young man in a tracksuit is an undercover government inspector, come to check that the shop is obeying all the laws which make up the conditions of its licence. He watches the way the staff deal with a customer who’s already badly stoned – they gently but firmly remove him, and give him the number of a health centre two streets down who will look after him - and makes a mental note of approval.

You choose your purchases, take them in a basket to the till, pay and leave the shop. There used to be some small-time dealers on the streets round here, especially at the entrance to the Tube station,

but no longer. The legitimate market has put them all out of business (though a couple of them have retrained and now work at the cannabis store you've just left: no point letting all that market knowledge go to waste, after all). When you get home, you smoke a medium-strength joint while your partner vapes. Just like having a glass of wine in front of the latest box set.

And the most extraordinary thing about all this is the fact that it's not extraordinary in the least. It's what millions of people do every day. It's a quotidian and unremarkable part of the social fabric. The language around the cannabis business – 'store', 'staff', 'recommendations', 'licence' – is the language of business and regulations. Not controversial or subversive. Rather boring, in fact.

That is our destination. It is not a place we will reach easily or any time soon. Before we get there, we need to pass through several checkpoints: public opinion, parliamentary debate, executive action. We must make sure the regulatory framework is both sufficiently solid to sustain the industry built upon it and sufficiently pliable to adapt to the inevitable changes along the way. Like all long journeys, it starts with a single step. We just need to take that step.