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Cannabis regulation: An entry point for regional
drug policy reform

The Eastern and Southern Africa Commission on Drugs (ESACD) convened a regional consultation meeting on cannabis regulation in Maputo, Mozambique, on 5 and 6 August 2024. The meeting was aimed at countries in Eastern and Southern Africa that have already decided to regulate cannabis use and production in some form or were otherwise considering it. Thematically, the meeting focused on three core elements of cannabis regulation: designing the initial framework; implementing policy; and ensuring compliance and oversight.

Regional delegates from Lesotho, Malawi, Mauritius, Mozambique, South Africa, Tanzania, Uganda, Zambia and Zimbabwe, representing variously government, law enforcement, academia and civil society, were joined by participants from countries that are further along in the regulatory process, including Canada, Ghana, Thailand and North Macedonia, who shared their experiences of regulation. The meeting was solution-orientated and focused on collaborative problem-solving, with the hope that delegations from Eastern and Southern Africa would be encouraged to advance their existing cannabis regulatory policies into practice.



The Eastern and Southern Africa Commission on Drugs brought together a diverse group of participants in Maputo in August 2024 to discuss the regulation of cannabis.

This motivation was echoed in the opening address by Filipe Nyusi, President of the Republic of Mozambique, who spoke of the importance of reducing the stigma and misconceptions surrounding cannabis, arguing that when it comes to cannabis regulation, careful analysis should be accompanied by open dialogue. President Nyusi underlined that this dialogue should be one of active participation leading to concrete proposals: ‘Everyone must bring solutions so that we can find new ideas.’

President Nyusi was joined by other high-level government representatives appearing alongside ESACD commissioners Kgalema Motlanthe, former President of South Africa and chair of the commission; Joaquim Chissano, former President of Mozambique; Cassam Uteem, former President of Mauritius; Dr Willy Mutunga, former President of the Supreme Court of Kenya; and Professor Quarraisha Abdool Karim, Associate Research Director of CAPRISA (Centre for the AIDS Programme of Research in South Africa). Over the course of the meeting, the commissioners led a discussion that explored not only what does and does not work when it comes to cannabis regulation but, more importantly, the kinds of measures that are relevant specifically for the region. The conversation highlighted the complexity of balancing public health and commercial interests, the importance of clear communication and the need for continual policy refinement.

ADDRESSING A CENTURY OF PROHIBITION

Despite being a major producer and consumer of cannabis, the African continent has historically maintained some of the strictest laws regarding its production and use. As it has becoming increasingly evident that the global ‘war on drugs’ has not achieved its objective of combating the illicit drug trade, countries in Eastern and Southern Africa are reassessing their stance, with cannabis widely seen as a good entry point for reform, driven by the recognition of the plant's economic potential and supported by ongoing research and cannabis advocacy work.

The Maputo meeting aimed to harness this transitional moment by facilitating knowledge sharing to support the development of tailored solutions for regulating the cannabis trade in the region. Participants considered several thematic issues, focusing on the fundamental components of cannabis regulation policy and implementation, as well as the nuts and bolts of regulatory frameworks and compliance strategies. The discussion reflected the diversity of opinions, understandings and beliefs around the issue of cannabis, and illicit drugs in general, when it comes to establishing policies that seek to disrupt the illicit trade and mitigate the harms that are caused by these controlled substances and the national responses to them.

The keynote address underscored the need for a more informed discussion on cannabis regulation in the region, outlining the complex history of cannabis control dating back to the 1925 Opium Conference, which ushered in an era of strict prohibition. Despite almost a century of drug criminalization, the global situation has not improved and the number of people who use drugs continues to rise. Of the approximately 300 million people who use drugs today, the vast majority use cannabis.

A century of prohibition has shaped current cannabis legislation and resulted in a range of harms, including institutionalized discrimination against people who use drugs, more dangerous drug consumption practices and numerous public health problems. In recent years, however, even some historically more socially conservative countries have begun to adopt more nuanced and balanced perspectives on drug regulation. For example, countries such as Morocco and South Africa, which had long taken a hard-line approach to drug use and regularly voted against reform measures in the multilateral system, have in recent years begun to introduce some reform measures. This has been particularly pronounced in South Africa, where a landmark ruling in 2018 found that the prohibition of cannabis for personal use violated the constitutionally enshrined right to privacy.

South Africa's entry into a regulated cannabis market through the 2018 Constitutional Court ruling was followed by the passing of the Cannabis for Private Purposes Act in May 2024, which marked the formal legal start of regulated recreational cannabis use in the country. A representative from South Africa described the current legislation as ‘not really ideal’, however. The country finds itself in a regulatory limbo, with legislation remaining unclear, particularly as it relates to operational consequences for law enforcement. Notably, the Act, while permitting recreational use, does not allow the sale or purchase of cannabis. Thus, while it is legal to use cannabis in one's own place of residence, the absence of a legal supply mechanism means that cannabis used recreationally must either be grown by the user or purchased on the illicit market.

While South Africa has emerged as a pioneer of recreational cannabis use in the region, it had followed in the footsteps of Lesotho, which set a precedent by becoming the first country in the region to issue licences for the cultivation of medical cannabis in 2017. Zimbabwe had followed Lesotho's lead by regulating the production of cannabis for medical and scientific purposes in 2018. Zambia then began to allow the regulated production and export of cannabis for medical and industrial purposes, following a cabinet decision in 2019. Malawi's decision to regulate medical cannabis alongside industrial hemp in 2020 was driven more by economic necessity. As a predominantly agrarian economy faced with declining tobacco revenues, Malawi turned to cannabis as an alternative cash crop. This decision reflects a broader trend in the region, where countries have been inspired by booming global markets to explore cannabis regulation as a means of economic diversification and development.



Domician Mutayoba Dominic of Tanzania's Drug Control and Enforcement Authority addresses the commission.

More recently, Uganda has also taken steps to regulate cannabis, with a law signed in February 2024 allowing for licensed industrial cannabis cultivation and medical use. However, this legislation is yet to be enacted. Mauritius has taken a more cautious approach, so far introducing a market for medical cannabis that is highly restricted. The country has implemented strict requirements for patients and prescribers. In contrast to these varying degrees of legalization and more liberal markets, countries such as Tanzania and Mozambique still adhere to policies of criminalization for the production, trade and use of cannabis, with no consensus yet reached on regulation, either medical or recreational.

The discussion revealed several common challenges that countries in the region face as they navigate cannabis regulation. Many are struggling to balance the potential economic benefits of a regulated industry with public health and safety considerations. Implementing and enforcing new regulations has proven difficult, often due to limited resources and complex compliance processes. A widespread concern is the protection of traditional growers and local economies. There is a recognized need to ensure that new regulatory frameworks do not harm traditional growers or disrupt micro-level local economies that may have historically relied on informal cannabis cultivation, reflecting the complex socio-economic dimensions of cannabis regulation in the African context. The affordability of compliance processes also emerged as a significant issue, with speakers noting that small-scale farmers often struggle to meet the financial requirements of new regulations. This raises concerns about inadvertently creating barriers to entry for small-scale cultivators and potentially concentrating the benefits of legalization in the hands of larger, better-resourced actors, thereby exposing the market to the risk of corporate capture. Rather, regulation should work to ensure the even distribution of the benefits of legalization.

Despite these challenges, African countries are actively engaging with the complexities of cannabis regulation. The discussion also underlined that the global reformist repositioning on cannabis is not just a Western phenomenon. Countries in Eastern and Southern Africa are carefully considering the potential benefits and risks, and working to develop context-specific regulatory approaches that reflect their specific economic, social and cultural circumstances.

TERMS OF CHANGE

The interventions from country representatives established the setting for the broader discussion on approaches to drug policy reform, out of which the role of language, communication and education emerged as a central theme.

One of the crucial first steps in designing a regulatory framework for cannabis is to establish clear definitions, particularly distinguishing between decriminalization, legalization and regulation, three terms that are often used interchangeably but have distinct meanings. While decriminalization typically creates a legal exception to existing legislation, usually by removing criminal penalties for personal possession, legalization removes all criminal penalties for the acquisition, cultivation, possession, trade and use of cannabis. Although the meeting necessarily included a discussion of decriminalization and legalization, it steered towards thinking more broadly about regulatory systems – in other words, establishing a framework of rules and parameters to control the production, distribution and use of cannabis.

Education plays a pivotal role in the successful implementation of cannabis policies. It is essential to inform the public not only about the harms associated with cannabis, but also about the realities and intricacies of the regulated market. Helping the public to understand the new regulatory framework should include clarifying what is and is not allowed under the new regulations, providing information on the potential risks and benefits of cannabis use, explaining the rationale behind the policy change, and addressing misconceptions and stigma surrounding cannabis. Participants noted that changing public perceptions and social norms around cannabis use can be in fact more challenging than making legislative changes.

Participants also emphasized the need for linguistic clarity when communicating with the public and stakeholders about cannabis. For example, a Canadian law enforcement representative said: 'Everyone needs to be part of the same discussion, but they really need to understand your terms.' She pointed to Canada's decision to use the term 'cannabis' instead of 'marijuana' and to include the non-psychoactive component cannabidiol (CBD) in its definition of cannabis. 'We changed our language around everything. We wanted to make sure that we weren't using terms that could be misinterpreted,' she said.

The meeting also highlighted the importance of dialogue, which was evident in several aspects of the discussion, including consultation and research. The keynote had begun by emphasizing this, reflecting on the importance of knowing what we are talking about when we talk about cannabis: 'When we say cannabis, it might be quite obvious, but cannabis can be many things and can include a variety of other secondary or tertiary related items.' This material complexity – with cannabis encompassing different products such as oils, edibles, topicals and concentrates – underlines the need for comprehensive and inclusive thinking. Maintaining ongoing dialogue should include facilitating consultation and research, engaging in discussions with law enforcement and the public, and developing a nuanced understanding of cannabis as a substance, product and policy issue.

ESTABLISHING CLEAR OBJECTIVES

In addition to defining and disambiguating cannabis terminology, countries need to clearly define their objectives for regulation when designing the initial framework. Common goals cited include disrupting the influence of organized crime, preventing use by minors, improving public health outcomes, generating revenue for the national treasury, and creating economic opportunities and improving livelihoods.

However, while the motivations for cannabis regulation may be similar across the region as a whole, the mechanisms for implementation will inevitably differ from country to country. Participants agreed that there is no single right approach to

regulating cannabis. As one speaker noted, 'There's no one overriding silver bullet or step-by-step process that every country can follow and ... get the same result. It's very much an individualized process of moving forward, accommodating the measures and realities of your own country in the face of the market itself.' Speakers noted here the need to examine regulatory models from other countries but to ultimately develop a tailored approach based on their specific context. This would include considering existing cannabis use patterns and market dynamics, cultural and traditional practices involving cannabis (for example, Rastafarianism), and political and social attitudes towards cannabis.

Designing an effective regulatory framework also requires balancing the interests of different stakeholders and matching the needs of law enforcement with health and criminal justice perspectives. Participants stressed the importance of addressing the concerns of law enforcement and public health officials, as well as engaging with civil society organizations and community leaders. One speaker highlighted the value of public consultation in developing cannabis regulations, noting that a research component should accompany or precede regulation, including a sound understanding of national marketplaces. This includes gathering data on current rates and patterns of cannabis use, the size and structure of the existing illicit market, the potential economic impact of regulation, and public health considerations and existing treatment systems. Many countries in the region identified challenges in obtaining accurate data on drug markets, reflecting the need for improved research capacity.

Not only should implementing cannabis regulation involve consultation with the public, and in particular with people who use cannabis, but any regulatory model should also be designed to incorporate legacy or traditional growers into the regulated market. Balancing local traditional practices with modern regulatory frameworks requires careful navigation. Those who have been growing cannabis for a long time and whose involvement in the market pre-dates regulation are some of the most knowledgeable sources of information in terms of cultivation and production. Yet they may not be able to meet the standards imposed through regulation. As one participant noted, 'To develop a regulatory regime without benefit from that [pool of] expertise ... is one that's first doomed to exclude these valuable resources from the market as a whole, but also potentially doomed to create a market that doesn't accommodate the knowledge and experience necessary to make one that's relevant and effective to achieve the local goals.'

A DYNAMIC SYSTEM

Several participants advocated for a phased approach to implementing regulation. This would allow for the gradual adaptation of existing systems and institutions, time to build up the necessary infrastructure and capacity, the opportunity to evaluate and adjust policies based on initial outcomes, and managing public expectations and concerns. Speakers reflected on the value of moving forward cautiously and building flexibility into the regulatory framework from the outset. Indeed, one participant argued that the regulatory framework should be thought of as a dynamic system, something that can change as the market changes: 'It is very important to think of cannabis regulation as a process of change, and not just as a single event. Today it is criminalized but tomorrow it is now regulated and legalized.'

Built-in flexibility should include monitoring and evaluation of regulatory effectiveness, mechanisms for adjusting policies based on emerging evidence and market trends, and ongoing stakeholder consultation and feedback processes. Canada, for example, is already in the process of modernizing its cannabis laws and regulations, with a mandate built into the legislation for the federal government to review the legislation within five years of implementation. On this point, participants agreed that the most sensible approach to regulation would be to start with more controls in place, and then gradually reduce those safeguards, to lessen the likelihood of people abusing the legislation.



The commissioners greet Mozambican President Filipe Nyusi ahead of the regional consultation meeting on cannabis regulation.

In addition to flexibility, legislation should also require ongoing data collection and impact assessment to evaluate the effectiveness of regulation. Notable areas for monitoring include changes in cannabis use patterns, particularly among young people; public health outcomes, including treatment admissions; economic impacts, including job creation and tax revenue; and changes in law enforcement activities. Participants emphasized the importance of clearly defining the metrics of success and ensuring transparent, independent evaluation of outcomes. As one speaker observed, just as there is no single way of pursuing a regulated cannabis market, so there is no single way of measuring success: 'It's important to understand when we're talking about successes or failures that we understand some basic features, such as what is it that's being measured to prove that this is a success or failure? How is it being measured? And most importantly, who's doing the measuring?'

REGULATORY OVERSIGHT

The meeting also focused on the need to establish regulatory oversight armed with adequate resources. As one participant reflected, 'There's a strong need on the part of the regulatory authority to have the necessary financial resources, but also human resources, technical resources, and time to undertake the duties that are necessary to ensure that licensees are doing what they are supposed to be doing.' Developing clear licensing procedures and standards is crucial for effective oversight. This includes establishing criteria for licence eligibility, setting standards for cultivation, production and retail practices, instituting packaging and labelling requirements, and creating advertising and marketing regulations.

Effective compliance also requires robust monitoring and enforcement mechanisms, however. This includes regular inspections of licensed facilities, product testing and quality assurance programmes, investigation of complaints and

reported violations, and penalties for non-compliance, ranging from fines to licence revocation. Reflecting the ongoing need for enforcement efforts even in countries that have introduced regulation, a law enforcement representative observed that illegal markets often continue to perform well even as legal markets flourish.

Indeed, Canada and North Macedonia have observed the continuation of an illegal or grey market for cannabis in spite of legalization. But participants also observed the need for pragmatism here, with one speaker arguing: 'You're never going to fully eliminate the illicit market, but having lower fees and the right restrictions in place is a valuable approach, because your biggest competitor has a hundred years start on you.' Speakers noted the need to retain a balance between the pursuit of revenue generation and the pursuit of cannabis regulation as a way of undercutting the illicit market, because if the taxation rate or fees are too high, it becomes too expensive for many people to become involved and makes legal cannabis much more expensive than illegal cannabis, thus discouraging participation in the legal marketplace.

A key challenge in implementation is therefore addressing the existing illicit cannabis market and protecting against the kinds of regulatory gaps or sluggish implementation that allow it to persist. Strategies discussed included setting appropriate tax rates and licensing fees to make legal cannabis competitive, creating pathways for illicit market participants to enter the legal market, enhancing enforcement efforts against large-scale illicit operations and focusing on product quality and safety as a selling point for legal cannabis.

PRIORITIZING PUBLIC HEALTH

One of the motivations for regulation is the range of social and public health harms associated with the illicit cannabis market, including the spread of synthetic cannabinoids and stigma and discrimination against people who use drugs. A Kenyan representative highlighted how her country's excessive focus on law enforcement, as opposed to public health, has led to the imprisonment of many young people for minor cannabis offences: 'Some of them have been sentenced to up to 30 years for possessing 3 grams of cannabis.'

The criminalization of cannabis can also create structural challenges for drug treatment systems, while stigma can discourage users from seeking help. The targeting of drug users by law enforcement can erode trust between communities and the police, exacerbating these problems and perpetuating the cycle. By contrast, as one representative noted, legalization allows for better engagement with frequent consumers, providing opportunities for the dissemination of information relating to harm reduction and healthcare. In addition, government-controlled marketplaces can ensure product safety through testing, quality control and packaging regulations.

However, speakers cautioned that poorly designed drug policies can in fact contribute to the reproduction of poverty and structural inequalities in vulnerable communities. Participants emphasized that regulation should avoid approaches that may solve one problem but create others. Instead, they agreed on the need for a human-centred perspective that recognizes the diversity of individuals and communities affected by cannabis policies. As one speaker noted, 'We must be cognizant of the fact that there are people behind this plant. ... There are families, there are children, there are women, there are transporters, there are traders.'

With these challenges in mind, the discussion advocated a whole-of-society and multisectoral approach to the development of a regulatory framework for cannabis. This requires the engagement of civil society, the private sector, government and citizens. Effective implementation also relies on coordination between different government departments, including health, agriculture, law enforcement and justice. Participants underlined the need for clear communication channels and defined roles and responsibilities across ministries, as well as consultation with affected populations to ensure community and public health support, and to guard against social exclusion.

A SIGNIFICANT STEP

The ESACD cannabis regulation meeting in Maputo, the first of its kind in the region, represents a significant practical step forward in the commission's campaign for reshaping drug policy in Eastern and Southern Africa. By focusing on cannabis, the region has found a promising entry point for a broader discussion on drug policy reform. Not only is cannabis the most widely consumed and produced drug on the African continent, but it is also deeply rooted in cultural practices and domestic livelihoods, including the Rastafarian community. As such, it represents a unique opportunity for the region. As one participant noted, 'Cannabis gives us our best chance of success in addressing the serious and multifaceted problem of drugs in the Eastern and Southern Africa region.'

While rejecting the notion that cannabis could be a so-called gateway drug, leading to the use of 'harder' drugs, the meeting instead reframed cannabis as a 'gateway' to regional drug policy reform, reiterating that the real danger of cannabis lies in 'the processes of development and implementation [of policy reform] and ignorance'. Indeed, one participant noted that cannabis 'is not the drug that prohibition has made it out to be. It is full of potential harms and full of potential benefits, and prohibition has focused us on the potential harms.'

The ESACD has laid the political foundations for drug policy reform in the region, positioning Eastern and Southern Africa to play a leading role in cannabis regulation efforts on the African continent, and perhaps even globally, potentially offering valuable lessons for regions grappling with similar challenges. Continued dialogue, collaborative problem-solving and a commitment to responsible, evidence-based policymaking will be crucial as countries navigate the complex process of cannabis regulation and broader drug policy reform. However, a productive path forward will require overcoming political and institutional inertia, addressing resource constraints and ensuring equitable distribution of benefits. As one participant noted, 'The next changes are education, social and health, and these are so much harder than the legislative changes.'



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