

THIRD PRESENTATION

LEGAL FRAMEWORK FOR THE PREVENTION AND SUPPRESSION OF CANNABIS CULTIVATION

**By Mr. BIKELE NOAH Lambert
(MINJUSTICE)**

Introduction

All nations of the world are currently experiencing the unprecedented and illicit development of the production, trafficking and use of drugs and psychotropic substances. Cameroon is facing the same struggle. Cannabis is one of the most widely produced and consumed drugs in Cameroon with a wide trafficking network. And the consumption of this drug is wreaking havoc among the youth. It is important to note that the cultivation and trafficking drug, especially cannabis, significantly increases delinquency and violence and causes damage to persons and property.

Thus, to effectively combat this scourge, Cameroon readily cooperates at the international level and has adopted internal laws to suppress drug-related acts.

I. At the International Level

The fight against the cultivation, marketing, trafficking, possession and consumption of cannabis requires cooperation with the international community. Thus, the United Nations (UN) took the bull by the horns by setting up an office on Drugs and Crime.

Government regularly attends sessions of the UN Office on Drugs and Crime and regularly sends in questionnaires and forms which provide data on the nature and extent of the trafficking of drugs, especially cannabis.

Between 1961 and 1988, the UN submitted three international conventions for adoption by Member States which make up the body of international legal rules for fighting this global scourge now considered as organized crime.

These include:

- The Single Convention on Narcotic Drugs of 1961, ratified by Cameroon on 15 January 1962 and amended by the 1972 Protocol.
- The Convention on Psychotropic Substances of 1971 ratified by Cameroon on 5 June 1981.
- The United Nations Convention against Illicit Traffic in Narcotic Drugs adopted on 19 December 1988 and ratified by Cameroon on 28 October 1991. This Convention is the first to provide a legal framework to effectively fight the multifaceted aspects of drug trafficking which has developed today into an international criminal activity.
- In January 2011, Cameroon signed a Bilateral Agreement with Spain which covers collaboration and sharing of materials and information on the trafficking of drugs.

II. At the Domestic Level

- A National Committee for the Fight against Hard Drugs has been created in 1992;
- Thematic meetings on drug trafficking were held in different Ministries;
- Campaigns were conducted to raise awareness, advocate, impound, and destroy cannabis farms on a large scale.
- Customs officers, policemen, and gendarmes were provided with modern and frequently updated equipment to effectively detect and suppress drug trafficking.
- The country's main airports have also been provided with improved equipment for better control.
- On 12 November 2014, an Inter-ministerial Committee for the Fight against Hard Drugs was created.
- An action plan for 2015-2016 was drafted and adopted by the Committee.

Committed to fulfilling international commitments and participating in the struggle at the global level, on 7 August 1997, Cameroon adopted a national law in accordance with international conventions.

The law in question is Law No. 97/019 of 7 August 1997 on the control of narcotic drugs, psychotropic substances and precursors and on extradition and judicial assistance in connection with the trafficking of drugs, psychotropic substances and precursors. This law classifies cannabis and cannabis resin in Table I of high-risk drugs, and punishes activities related to the cultivation, marketing, possession and use of drugs, especially cannabis. In a significant way, this Law has intensified the fight against the cultivation, trafficking and misuse of drugs in Cameroon. Drug-related activities are a threat not only to the physical and mental health of the population, but are also closely linked to other forms of organized crime which endangers the political, economic and social stability of the State. Hence, there is a need for urgent action by Justice to punish these criminal acts.

It is worth noting *prima facie* that the Cameroon Penal Code does not specifically and directly punish the cultivation, marketing and consumption of cannabis. These acts are regulated and sanctioned by Law No.97/19 of 7 August 1997 aforementioned.

- Section 91 of this Law states that any person found guilty of violating the legal provisions governing the cultivation, production, manufacture,

extraction, preparation or processing of high-risk drugs including cannabis, shall be punished by imprisonment of 10 to 20 years and a fine of CFAF 250,000 to CFAF 1,250,000 or only one of these penalties.

- The same penalties shall be applicable to any person involved in the exportation, importation and international trafficking of high-risk drugs including cannabis (Section 92).
- Those who violate the legal provisions concerning the supply, marketing, distribution, brokerage, sale, transportation, purchase, keeping or the use of high-risk drugs including cannabis or cannabis resin shall also incur the same penalties (Section 93).
- Section 94 of the same law states that aiding another person to illegally use high-risk drugs including cannabis on payment or freely, either by procuring an accommodation space for that purpose or by any other means shall be punished by imprisonment of 5 to 10 years and a fine of CFAF 100,000 to CFAF 5,000,000, or only one of these penalties,
- Those who tolerate the use of high-risk drugs including cannabis in institutions or their outbuildings opened to or used by the public shall be liable to the same penalties.
- Those who add high-risk drugs including cannabis to food or drinks, unknown to the consumer, shall be liable to the same penalties.
- Any person who offers or transfers high-risk drugs including cannabis to a person for personal consumption shall be punished by imprisonment of 2 to 5 years and a fine of CFAF 50,000 to CFAF 250,000 or only one of these penalties (Section 95).
- The following penalties shall be doubled (Section 105)
 - When the offence is committed in a military, teaching or educational institution, a hospital or healthcare centre, a social service centre or in any other place or school where students carry out educative, sports or social activities, or in the immediate surroundings of these institutions or areas;
 - When the culprit belongs to a gang or criminal organization;
 - When the culprit is involved in other illegal activities facilitated by the offence;
 - When the culprit resorts to the use of violence or weapons;
 - When the culprit holds a public office and the offence is committed in the exercise of his duties;

- When the offence is committed by a health professional or a person in charge of fighting against drug trafficking;
- When the drug is supplied or proposed or given to a minor, a mentally deranged person or a person undergoing rehabilitation;
- When supplied drugs cause the death or seriously undermine the health of one or several persons.

Section 102 of this Law states that:

- “Notwithstanding the provisions of Sections 91 to 93, those who shall illegally possess, buy or cultivate plants or substances classified as narcotic drugs or psychotropic substances whose small quantity shows that they were destined for personal use shall be punished:
- With imprisonment of 2 months to 1 year and a fine of CFAF 25,000 to CFAF 1,250,000 or only one of these penalties if it’s a plant or substance classified as a high-risk drug such as cannabis, including cannabis oil.
- With imprisonment of 1 to 6 months and a fine of CFAF 25,000 to CFAF 500,000 or only one of these penalties, if it is a cannabis derivative apart from cannabis oil.
- The person concerned may be exempted from penalty by the trial court if he/she makes a registered statutory declaration during the hearings not to repeat the crime.”

Driving a vehicle under the influence of cannabis is punishable under Section 290 of the Penal Code with imprisonment of 6 months to 10 years or a fine of CFAF 20,000 to CFAF 1,000,000 or only one of these penalties. These penalties also apply to whoever refuses to subject himself to screening and verification tests.

The provisions of Sections 74 and 290 of the Penal Code should be added to this Law.

The law enforcement process provided for by the Criminal Procedure Code includes legal proceedings, judicial inquiry and the trial phase.

Since this law considers the cultivation and marketing of cannabis as crimes, a judicial inquiry shall be systematically opened against the defaulters. The

Examining Judge shall decide whether or not to issue a temporary warrant of arrest against them. This judicial inquiry shall be concluded with a referral order to the trial court which is the High Court ruling on criminal matters.

The consumption and possession of cannabis are offences and the State Counsel may, through the flagrante delicto procedure, refer the accused before the Court of First Instance ruling on correctional matters. This court shall decide whether or not the accused should be placed under preventive custody while awaiting trial. The State Counsel may also commence proceedings before the said court.

As you can see Ladies and Gentlemen, the Ministry of Justice is fighting against the cultivation, marketing, possession and consumption of drugs in general and cannabis in particular. In addition, circulars are frequently sent to the State Counsels attached to the Courts of Appeal asking them to address these acts with particular firmness.

Furthermore, a study to strengthen the fight against the cultivation, marketing and consumption of cannabis which is expected to lead to the possible amendment of Law No.97/19 of 7 August 1997 has been initiated at the Ministry of Justice.

Similarly, the draft decree laying down the composition and duties of the Committee for the destruction of narcotics in general and cannabis in particular has been prepared and submitted to hierarchy for signature.

Cameroon needs citizens with exemplary morals. In order to appreciate this morality, a criminal is often used. This document, as we know, traces all the convictions that an individual has received. If you aspire to occupy a position in society or write a competitive examination, a criminal record is usually requested. If unblemished, then you are morally eligible for the job or examination. But if previously convicted, you shall not be eligible.

Therefore, the cultivation, marketing, trafficking or consumption of cannabis can compromise our future both health-wise and socially. As the saying goes, have ***“a sound mind in a healthy body”***.