



**NON-PROFIT COMPANY**

Collectively Reforming South Africa's Cannabis Laws

## **WAY FORWARD**

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A Full-Spectrum Manifesto For Policy Reform



## 6. Way Forward

### 6.1. Support Industries

We become wary when analysts predict the massive potential of Cannabis, quoting billions in sales once this plant is legalised for commercial purposes. We need to stop overselling the potential of Cannabis as the saviour, as an entire economy cannot be based on a single industry. We do believe Cannabis cultivation, distribution and trade will help the economy. However, there is untapped potential in the industries that support our Cannabis industry.

Businesses that cultivate, distribute and/or sell Cannabis are directly involved in handling the plant, also known as “Touching the plant” type businesses and they are/will be subject to more stringent regulations. Supporting businesses, on the other hand, also known as “ancillary”

businesses, support the various functions needed for a “touching the plant” business to operate and are subject to less stringent regulations<sup>1</sup>. Examples of supporting businesses are: agricultural input suppliers, accounting services, HR and payroll services, tech support and software, and hundreds more.

There are more supporting businesses than any other business in the Cannabis industry and this is where the real economic potential is hidden, especially for South Africa<sup>2</sup>. We have created a list of supporting-industry jobs in *Section 1: Cannabis 101* that is by no means exhaustive, but shows the potential when looking beyond Cannabis cultivation and trade.



## 6.2. Research on Ethnobotanical, Anthropological, Historical & Clinical Aspects; Research & Development of NPP Products

Cannabis is the most researched plant on the planet. However, a large proportion of state-sanctioned research (particularly in the USA) has focused on the so-called harms of the plant. There is a gap in scientific evidence due to decades of inertia over Cannabis-related research. In 2018, researchers “detected a historical gap in studies on Cannabis” after thoroughly reviewing scientific literature since the 1960s<sup>3</sup>. Three landmark studies from the field of Cannabis and Cannabinoid research show the important knowledge gap:

- THC, the primary active compound of the Cannabis plant, was only identified in the 1960s,
- The endocannabinoid system (ECS), indispensable to explaining THC’s effects on the brain, was only discovered in the 1990s,
- The exact botanical classification of Cannabis was only established as recently as 2010.

With prohibition coming to an end in parts of the world, more funding has become available to academic institutions and research facilities. An exponential increase in research is needed: we cannot afford for the 21st Century to unfold as the 20th Century did, with policy decisions that disregard the most basic Cannabis science. While some countries (particularly Israel) are making laudable progress with researching the plant and its medical benefits, far more research needs to be focused on the sociological impact of the changing Cannabis landscape. For example, laws and regulations in many parts of the world ignore the effects of 100 years of prohibition and the impact that this has had on marginalised communities and communities of colour. There is certainly something we have heard nothing about in Africa – research into the impact of prohibition that informs policy.

Fields of Green for ALL is proud to report that we are working with the University of Pretoria as part of a Cannabis Research Steering Committee. The

purpose of this committee is to begin work on multi-disciplinary Cannabis research projects. We look forward to using our experience and networks to add value to the growing body of Cannabis research that is evidence based and academically rigorous.

To date, the realm of Cannabis medicine has received the lion’s share of attention and funding. It is our hope that scientific research will broaden its scope once the plant is legally regulated. Despite our political woes, South Africa remains at the forefront of many areas of scientific research. Medicine-related research on Cannabis could explore the health effects of WPP Cannabis use, for instance on non-communicable diseases, and not be limited to strictly therapeutic approaches.

Going forward, emerging, legitimate Cannabis businesses and organisations should be given the full support of the authorities for their research projects. This should be supported by public funding and tax relief. The various established research facilities should also be supported to come up to speed with world trends around Cannabis, the plant and its uses.

Currently, a research stream in collaboration with the Department of Agriculture, Forestry and Fisheries is looking at the genetics and interbreeding of local strains of the Cannabis plant in the Eastern Cape’s Pondoland area and Lesotho. This should definitely not be an exception, and such studies must be mainstreamed across the country. In the same direction, research should be diversified, including historical, sociological, anthropological, ethnobotanical and ecological studies that relate not only to the medical uses, but also to the broader relationship that humans and communities have established with the plant. Research into veterinary applications, as well as increased research and development around “Hemp” NPP products should also be conducted.

## 6.3. Prevention, Education & Harm Reduction

*"Instead of endorsing responsible education programmes, policymakers continue to appeal to tired fallacies that have long lost their influence on our young people. Any young person with a bit of curiosity will find evidence (both through personal experience and through access to information) to discredit the intellectually hollow Say No' campaign. I suggest that we need to replace this failed approach with honest information giving and open discussion that respects the complex choices facing young people."*  
 - Andre Croucamp *"The Anatomy of Prohibition"*<sup>4</sup>

We are firm in our opinion that the current system of "drug education", particularly in schools, is sorely lacking in substance and often blatantly wrong. For example, South African learners are taught that Cannabis is a "gateway drug", despite this having been disproved many times over. In consultation with experts in this field, the current curriculums for drug education in schools, tertiary education institutions, community organisations and the workplace will have to be revised and updated for the 21st century. Cannabis education must not be the sole responsibility of schools. Rather, the responsibility for education should shift to the Office of the Cannabis OmBUDsman in order that evidence-based education can be carried out across all sectors of society.

In Canada, a series of projects have taken place to update Cannabis use-related prevention, education and harm reduction. In 2018, a sensible Cannabis education and harm reduction toolkit for the youth was published, based on the idea that "the central purposes of drug education are to provide accurate information and awareness of resources, develop decision-making skills and health literacy, reduce risks of consumption, and support increasing an individual's risk competency."<sup>5</sup> This embeds into the internationally recognised need to harmonise dependence-related prevention (particularly in educational settings), as best results are met when all psychoactive products are addressed together: tobacco, alcohol, Cannabis and other drugs<sup>6</sup>.

The Canadian toolkit lists 10 elements that should guide Cannabis education and harm-reduction interventions:

### 10 ELEMENTS

- "Education grounded in evidence-based information;
- Non-judgmental, open dialogue that uses interactive approaches;
- Meaningful inclusion;
- Delivery by a trained facilitator or peer;
- Starting education earlier, with age-appropriate content;
- Supporting open parent-child communication;
- Inclusion of harm reduction;
- Education tailored to the specific context;
- Ongoing education available to youth;
- Attention to overlapping issues of racism, social justice, and stigma."<sup>7</sup>

In the same direction, the Centre on Drug Policy Evaluation<sup>8</sup> released an inspirational guide titled "Using Evidence to Talk about Cannabis"<sup>9</sup>, which provides for a thorough and recent take on all concerns related to dangers that might be linked to Cannabis consumption.

## 6.4. The Importance of Technology

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Under prohibition, users, cultivators and traders in Cannabis have harnessed the power of technology very successfully. The implementation of regulations should follow this trend and create a technology-based system from the outset.

It is common knowledge that the percentage of professionals working in the IT and related industries and using Cannabis is high. We know that in South Africa, we have many professionals keen to develop a system that is accessible to all in

our diverse country. The technological approach is an excellent added tool to reach the desired rainbow-model of regulations, but is also the most feasible in terms of cost. Important inputs of contemporary technologies (such as Blockchain-based systems) would not only prevent a bloated bureaucratic system, but would also require rigorous vetting of participants' credentials in order to combat costly failures with experimental systems and data-privacy issues.

## 6.5. Sharing Experiences with other African Nations

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It is suggested that South Africa invite envoys from the SADC region to observe the process of establishing a legally regulated Cannabis industry in our country. That way we would be able to share our experience and knowledge with each other and prevent any misconceptions along the way. Use must be made of regional and international resources such as the African Union (AU), the African Regional Intellectual

Property Organization (ARIPO), the UN Agenda for Sustainable Development, and the WHO's recent assessment of Cannabis and Cannabinoids, as we keep pace with changes around the world and lead the way in Southern Africa. We are pleased that the African Union has already established an African Union Expert Committee on Cannabis and we look forward to further developments from this working group.

## 6.6. Conclusion and Considerations

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The government is still fighting the legalised regulation of Cannabis in South Africa in court and the authors of this document are, in various ways, plaintiffs in these court cases. We know there are already various stakeholders advocating for an end to Cannabis prohibition and fair regulation in discussions with the government. This is indicative of the contradictions at play. Why has the government not withdrawn their opposition in The Trial of the Plant? This would indicate their willingness to consider both the harms of prohibition and the existence of a thriving, sustainable Cannabis industry that is already in place.

**It is for this reason that we are demanding a comprehensive and inclusive process of discussions around the legal regulation of Cannabis in South Africa – maybe a full**

**commission of enquiry that actually HEARS the evidence underlying our work in this Manifesto?**

The Trial of the Plant was filibustered out of time by unnecessary deliberation over Fields of Green for ALL's right to live-stream the proceedings on our website. After almost two years of lengthy court deliberation, Fields of Green for ALL won the live-streaming case with costs.<sup>10</sup> Furthermore, the trial was rendered part heard by the unnecessarily lengthy cross-examination of one of our key witnesses, Prof David Nutt. Prof Nutt did not complete his evidence and we only managed to complete the evidence of one other witness, Dr Craig Paterson, our history expert. The plaintiffs spent years and went to great expense to enlist the evidence of Dr Donald Abrams, a world-renowned Integrative Oncologist, but he had to return to San Francisco, USA, without giving evidence. The same

goes for our remaining witnesses in the fields of criminology, industrial Cannabis and economics. Neither did the main plaintiffs in the trial, Myrtle Clarke and Julian Stobbs, get a chance to give their pivotal evidence.

In the Prince / Acton Case, heard in the Western Cape High Court with the judgment being handed down by Judge Dennis Davis in March 2017 and upheld by the Constitutional Court in September 2018, the evidence of the plaintiffs was described as “voluminous” and “of little value to the determination of this application.” In the second paragraph of the judgment, Judge Davis states that “the relief which is sought is not particularly easy to divine because the application brought before this Court is made by individual applicants whose application and papers reveal a lack of legal precision, particularly in the framing of the relief sought.”

**Hence we have a situation where no REAL evidence has ever been heard in court – for or against the legal regulation of Cannabis in South Africa.**

The legislature does not have any evidence to go by, save for Prof Nutt’s incomplete evidence from August 2017 in the Pretoria High Court. The perceived harms of Cannabis are the main point in question here. How is the legislature going to determine whether Cannabis is less harmful than alcohol and legislate accordingly? They may take Prof Nutt’s incomplete evidence into account, as it is available in both video and transcript format or the government could do the right thing and invite Prof Nutt back to South Africa to complete his evidence before a Dagga Commission. As it happens, Prof Nutt has expressed his interest in coming back to South Africa to conduct a “multi-criteria decision analysis on drugs” that is specifically South African.

How can you have evidence-based policy with no evidence? The Constitutional Court agreed with Judge Davis and declared that the prohibition of Cannabis for personal use in private spaces is

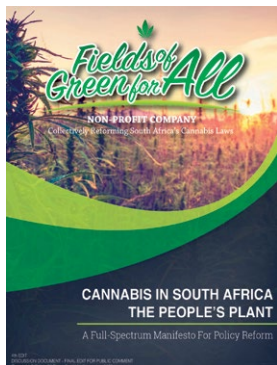
unconstitutional. However, the highest court in the land stopped short of endorsing the part of the Western Cape judgment that included “purchase”. This reinforced the discrimination that traders in the Cannabis plant have faced for so many years. We believe that this was picked up on by the South African Police because, since the judgment, there seems to have been an obsession on the part of the police to harass members of the public for any amount of Cannabis that they deem to be too much for personal use. The police were given sweeping powers by the court and their ignorance around the harms of Cannabis continues unabated. This was reinforced by our Minister of Police, Bheki Cele, stating publicly that Cannabis is a “gateway drug”<sup>11</sup>, one of the pieces of gross misinformation and drug-war propaganda that we were at pains to dispel in The Trial of the Plant... Unfortunately, we didn’t have a chance to do so.

Litigation is a costly and time-consuming exercise and we feel that it would be unfair and illogical to force the plaintiffs in The Trial of the Plant back to court, because of poorly researched and propaganda-based regulations.

This very real threat manifested itself in the the draft Cannabis for Private Purposes Bill, released in 2020<sup>12</sup>. This “Bill” attempts to attach limits for the amount its authors perceived as sufficient for personal cultivation and use, without basing these limits on any concrete evidence. It does not consider the evidence around the various delivery methods of Cannabis and the amounts required. Neither does it show any recognition for the illogical grey areas it creates by keeping trade illegal. Fields of Green for ALL has submitted our commentary on the “Bill”<sup>13</sup> and we would like to note here too that the intensive list of penalties faced by transgressors will only perpetuate the status quo. The document makes no sense and the lack of research behind its formation is obvious. Therefore, the matter will most probably have to return to Court for a consideration of the real evidence.



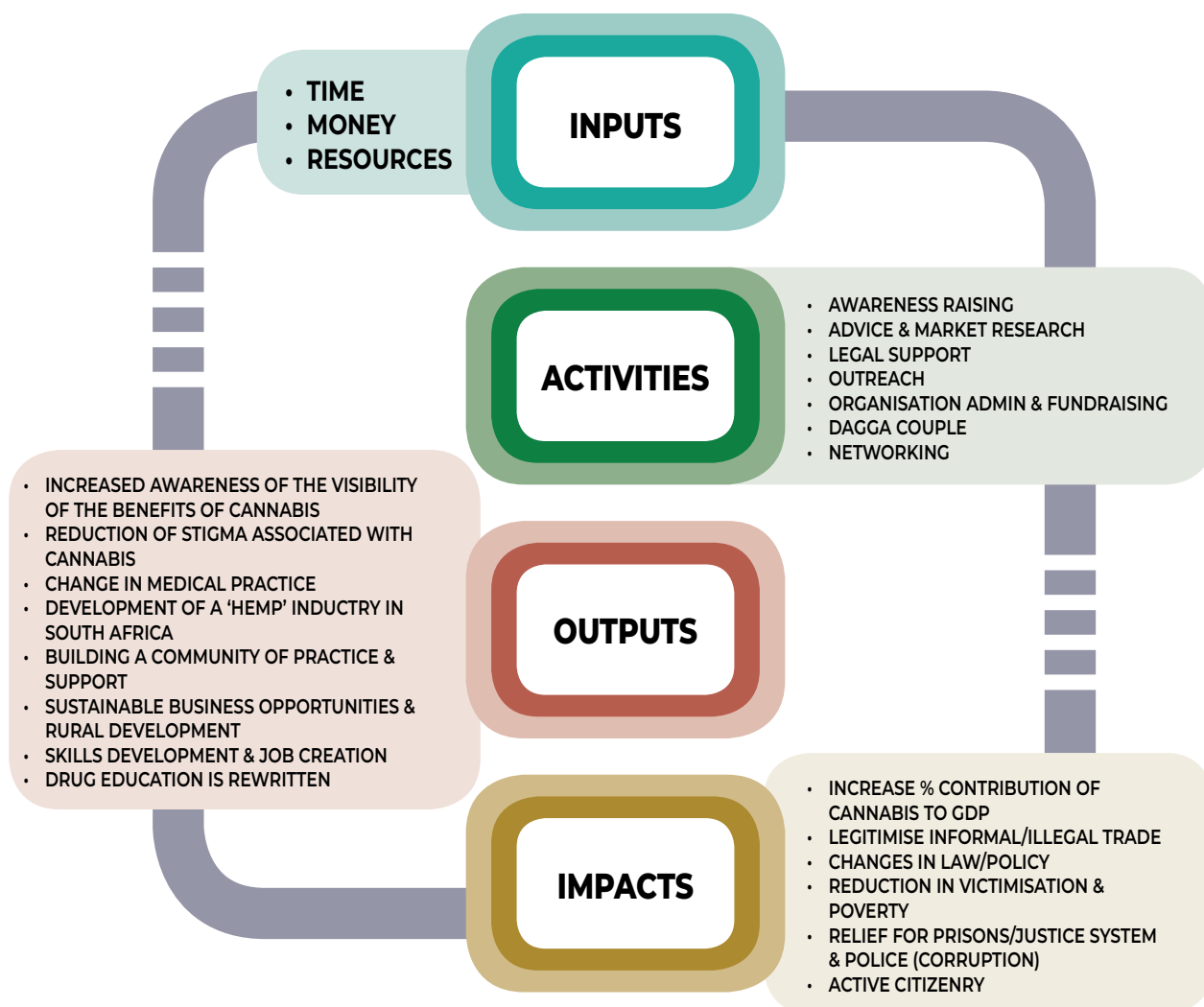
## 7. A Manifesto Based on More Than a Decade of Activism



The current potential for the legalisation of Cannabis in South Africa has been brought about through active citizenry on the part of Cannabis users, cultivators and traders of all genders, ages and races, nationwide.

This document is the fourth and final version of the “Desired Outcomes” – a living document first released in Autumn 2018, updated in Spring 2019 and finalised at the end of Summer 2020.

Fields of Green for ALL and The Dagga Couple have a vast support base and our campaign has been structured according to the following:



### RESULTS CHAIN

Because Cannabis law reform in South Africa cannot happen in a vacuum, there is a need to look into drug policies in other countries. Fields of Green for ALL has been involved on the international stage at several levels to get an international perspective on the subject, as well as having been invited to speak at various South African Cannabis conferences.

We attended the United Nations General Assembly Special Session on Drugs (UNGASS 2016) in New York in 2016 and several sessions of

the Commission on Narcotic Drugs, the central legislative organ of the international community on Cannabis-related policies. As active members of the Vienna NGO Committee (VNGOC) and New York NGO Committee on Drugs (NYNGOC) – official organs for participation and provision of inputs to the United Nations drug-control programme – we have contributed on several occasions to the ongoing debate on Cannabis, drug policies and the IDCC at the United Nations, providing our vision and updates from South Africa.

- 2016 - Global Forum of Producers of Prohibited Plants<sup>14</sup> (Heemskerk, The Netherlands)
- 2016 - United Nations General Assembly Special Session on Drugs (UNGASS2016)<sup>15</sup> (New York, USA)<sup>16</sup>
- 2016 - SA Drug Policy Week<sup>17</sup> (RUN2016), Cape Town: Cannabis debate side event. A conference that attracts high-profile drug policy experts from around the world. This annual conference is gaining momentum and has put the efforts of local activists firmly on the international map.
- 2017 - Presentation of a paper<sup>18</sup> at the Harm Reduction International (HRI17) conference, Montreal, Canada: "Cannabis is the Gateway to more Evidence-based Drug Policy in South Africa", centred around our #JoinTheQ project<sup>19</sup>, which helps citizens arrested on Cannabis-related charges.
- 2017 - Hosts<sup>20</sup> of the Clinical Cannabis Convention<sup>21</sup>, Johannesburg. Presented by Fields of Green for ALL and held during The Trial of the Plant in August 2017. We saw our local and international speakers connect the dots between Cannabis science and drug-policy reform.<sup>22</sup>
- 2018 - Civil Society delegates<sup>23</sup>, Commission on Narcotic Drugs<sup>24</sup> (CND61), Vienna, Austria.
- 2018 - Keynote Speakers<sup>25</sup>, Cannabis Liberation Day<sup>26</sup>, Amsterdam, The Netherlands
- 2018 - Speakers, Beyond Psychedelics conference<sup>27</sup>, Prague, Czech Republic
- 2018 - Series of meetings with European Cannabis stakeholders (farmers, breeders, NGOs, researchers, entrepreneurs, etc.)
- 2018 - International Cannabis Policy Conference (ICPC2018)<sup>28</sup>, Vienna, Austria.
- 2019 - Speakers at Hempfest<sup>29</sup>, Seattle, Washington, USA, and a series of meetings with North- American Cannabis stakeholders (farmers, breeders, NGOs, researchers, entrepreneurs, etc.)
- 2019 - Beginnings of engagements with activists from neighbouring countries, Namibia, Lesotho, Eswatini, Zimbabwe, Botswana and Zambia
- 2019 - Speakers, Cannatech Convention<sup>30</sup>, Cape Town, South Africa
- 2019 - Speakers, Vukani East London Cannabis Conference<sup>31</sup>, East London, South Africa
- 2019 - Speakers, The Durban Cannabis Expo<sup>32</sup>, Durban, South Africa
- 2019 - Speakers, Gordon Institute of Business Science (GIBS), Cannabis: Great new Business Opportunity or Hype?<sup>33</sup>, Johannesburg, South Africa
- 2020 - Speakers, University of Pretoria, Webinar on Legalising Cannabis in South Africa<sup>34</sup>, Johannesburg, South Africa





Cannabis March, Cape Town



Crowd listening to the judgement



Fields of Green banners

In more than a decade of Cannabis activism, Fields of Green for ALL and The Dagga Couple have made every effort to ensure that our work covers as much of the vast Cannabis landscape as possible. From presentations to a handful of people in homes in small towns across the country to halls full of farmers in rural areas, our message about the harms of prohibition and the potential of this industry to be “captured” by those with resources, has been loud and clear. Our deep love for Cannabis culture and its unique possibilities for uniting our divided country, has always been an important focus. Sadly, the outbreak of the Coronavirus pandemic has put an end to our annual **DDay Celebration of Cannabis Culture**<sup>35</sup> for now, but we hope to resume these legendary events (held in Johannesburg for seven years in a row) as soon as regulations around gatherings are lifted.

Until such time as equitable, sustainable, constitutionally sound Cannabis regulations are enacted into law in South Africa, as well as across Africa, our work will continue. Our beloved **Jules**<sup>36</sup> is with us in spirit every step of the way and it is our mission to complete the work we started all those years ago.



In the courtroom



Members of the Douglasdale SAPS and Night Gaurd

## Footnotes

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