

There is some irony in governments around the world, including South Africa, trying to prevent the use of sugar through sugar taxes, while at the same time lifting prohibitions on the use of marijuana.

KwaZulu Natal will be impacted on by this trend. It is common knowledge that the cost of growing marijuana in Southern Africa is a fraction of what it is elsewhere. There will be a potentially significant financial upside if large scale commercial growth becomes lawful.

In some places, marijuana may be used for medical purposes and in others it may be used for medical or recreational purposes.

MEDICAL	MEDICAL & RECREATIONAL
Canada, Italy and others in the pipeline	Portugal, Spain and others in the pipeline
USA: Arizona, Montana, New Mexico, Texas, Florida plus a dozen other states in the pipeline	USA: California, Oregon, Washington, Nevada, Alaska, Maine and others in the pipeline

Some places have decriminalised the recreational use of marijuana while others have legalised it.

Decriminalising means the use of marijuana is not a criminal offence but can still result in a fine. Compare decriminalising to speed limits. Going slightly above the speed limit is not a crime but it can result in a fine.

Legalisation means no criminal offence and no penalties, unless defined parameters for use are not respected. Continuing with the car analogy, it is legal to drive as fast as you want on the autobahn but there are rules.

Is South Africa going GREEN?

Green Prince and Trial of the Plant

In the 2017, in the case of Prince v Minister of Justice, the authority of the state to restrict what people eat, drink or smoke in their own homes was challenged on the grounds that it is an unjustifiable invasion of an individual's right to privacy, dignity and freedom. The Western Cape High Court held that the use of criminal law to punish private use of marijuana was not justified.

The court ruled that the relevant sections in the legislation referred to above were unconstitutional to the extent that they prohibit the possession, purchase or cultivation of cannabis in a person's home for personal consumption by an adult.

The Prince decision has been appealed and should be heard by the Constitutional Court some time in 2018. Up until the Constitutional



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Legalisation involves a bigger concession by governments that controlling what people voluntarily ingest is their own personal responsibility and/or state intervention has a net cost greater than any net benefit.

Current position in South Africa

In South Africa, the use or possession of Marijuana is prohibited by the legislation in the table below:

RELEVANT LEGISLATION IN SOUTH AFRICA	
Drugs and Drug Trafficking Act	Section 4 (b) prohibits the use of undesirable dependence producing substances and cannabis is listed.
Medicines and Related Substances Control Act	Section 22A (10) prohibits the sale of scheduled substances other than for permissible medical purposes. Cannabis is listed in schedule 7.
Criminal Procedure Act	Section 40 (1) (h) Authorises the arrest of a person in possession of dependence producing drugs.

Court has ruled on the matter the possession of marijuana, in the writer's view, remains a criminal offence.

Another equally important case has come to be known as the Trial of the Plant (google the term).

This case involves a challenge to the constitutionality of criminalising marijuana.

The Future

Given the international trend towards both lawful medical and lawful recreational uses of marijuana, it is arguable that widespread commercial farming of the crop in KwaZulu Natal is a possibility at some point.



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