CANNABIS DEVELOPMENT COUNCIL OF SA

SUBMISSION TO THE JUSTICE PORTFOLIO COMMITTEE ON THE PROPOSED CANNABIS FOR PRIVATE PURPOSES BILL
WHO WE ARE
CANNABIS DEVELOPMENT COUNCIL SA

• Represent civil society in lobbying parliament & government to raise awareness of the health and socio-economic potential of cannabis
• Undo the legacy of 120 years of racist & scientifically baseless cannabis prohibition
• Advocating for a rational scientific and agriculturally based approach to cannabis legislation to benefit all South Africans
• Fostering open communication and fact-based discussion
• Advocate for Cannabis as South Africa’s primary reconstruction and development agent to put us at the forefront of the rapidly emerging global, multibillion-dollar cannabis industry
The Constitutional Court judgment of 2018 finally catapulted RSA into a position that no other government in the world has been in before.

It allowed RSA to become a world leader and innovator, whilst empowering our people, but it would seem our legislature and Executive wants us to be followers as opposed to leaders, and imitators instead of innovators.

The current Cannabis Bill and Masterplan is fragmented whilst the law requires it to be holistic.

The legislature, by virtue of their constitutional duty to prepare a law of general application must paint with broad strokes, not the narrow ones they used to draft the Bill. It continues to use racist, outdated and unscientific arguments to hold that cannabis is part of the problem instead of being part of the solution and

Frankly represents the most realistic chance that RSA has at empowering its 12 million unemployed people and lifting them up from the quagmire of poverty, joblessness and desperation.

All of this can be done in a sustainable, reliable and renewable manner if we embrace cannabis in a warm, holistic way, not the reluctant impassionate hug we have in the Bill and Masterplan.
The tagging process is concerned with the question of how the Bill should be considered by the provinces and in the NCOP, and how a Bill must be considered by the provincial legislatures depends on whether it affects the provinces, the more it affects the interests, concerns and capacities of the provinces, the more say the provinces should have on its content, necessitating a Section 76 tagging.

The proposed Cannabis for Private Purposes Bill is incorrectly tagged as a Sect 75 Bill and we maintain that it should be a Section 76 tagging primarily because it impacts:

- On indigenous law and custom that is a Schedule 4 concurrent competency
- as well as Schedule 5 that deals with exclusive Provincial competencies such as the environment and licencing.
- If the legislation impacts on the financial status of provinces it further demands a Section 76 tagging
- There are greater procedural safeguards built into Section 76 legislation as opposed to Section 75 that ensures greater provincial and public input.

Although there may be scope for differences of opinion when it comes to the value judgement, pragmatically Parliament would usually be safe if it adopted a cautious approach and tagged borderline bills in accordance with Section 76 rather than Section 75. Rogers J @ par 89 in DA v President of South Africa 2014 ZAWCHC
The applicants in the cannabis matter argued that the previous cannabis laws violated constitutional rights primarily those of equality, dignity, freedom and privacy.

The Constitutional Court by virtue of the principle of minimalism chose to only develop Privacy even though several rights violations were alleged and presented in the papers.

However the legislature cannot act by the principle of minimalism, they are obliged to develop laws as broadly as possible because that is the nature of constitutional protection.

Parliament is therefore obliged to address all the rights violations presented to the constitutional court and to develop a holistic bill of general application.

The decision therefore to only provide for privacy laws shows a gross misunderstanding of their competency and responsibility.

The resulting legislation is not allowing us to hit the ground running but to condemns SA to be followers instead of leaders and innovators in the global cannabis space.
Parliaments Public Participation Model states that a ‘People’s Parliament’ requires an institution that prioritises and seeks active engagement with the public, and that is receptive and responsive to the needs of the people.

This implies that the cannabis community had to be consulted in the Conceptualisation & Development of the bill.

The law states that Parliament cannot provide feedback to the public without first informing, consulting and involving citizens.

Informing therefore becomes an absolute prerequisite for effective public participation which has not happened.

An effective Public Participation Process should therefore provide for stages of participation that are commensurate with the level of public interest.
CONSTITUTIONALITY OF THE PROPOSED BILL

• The Bill in its current forms still negatively impacts people’s rights to equality, dignity, freedom and privacy in that it still proposes to use the criminal penal code to regulate cannabis. We should not use our societies most extreme sanction (arrest) to regulate concerns around cannabis.

• The strain on the correctional services and the inordinate costs of arrest and incarceration for the State would be immediately redressed if cannabis were to be descheduled out of the Drugs Act and the Medicines Act.

• Its no coincidence that these public hearing are held in Arbour week, and this exposes an inherent contradiction in the governments approach where we are promoting the planting of trees and the government is proposing legislation that would send people to jail for planting trees.

• Dissonance between the Department of Social Development and Welfare and the stance of the Department of Justice in the Bill highlighted where the focus could be on harm reduction as opposed to harm prevention which historically has proven to be an unrealistic target and therefore Cannabis should be de-scheduled from the Drugs Act as well as the Medicines Act.

• Section 14.2.c of the Equality Act demands that the laws regulating the cannabis community may not discriminate on the basis of criteria that are not objective and which are not related to the intrinsic nature of the activity concerned. In other words, the cannabis community cannot be discriminated against by laws that are not objective or evidence based.
We are proposing a single holistic unified cannabis bill that would enable cannabis for food, clothes, shelter, medicines and jobs, for struggling South Africans.

To develop a multi-billion Rand cannabis value chain in South Africa centred around indigenous land race cannabis.

Enable the empowerment of small-scale farmers and the development of agro-processing cooperative hubs that meet our developmental agenda.

Utilise cannabis to meet our commitments to the UN sustainable Development and Climate Change Goals.
KEY OUTCOMES

INDUSTRIAL CANNABIS / HEMP

• USE WHAT WE HAVE – Allowing small farmers to participate in the industrialisation of cannabis utilising their indigenous drought tolerant genetics that have been cultivated for hundreds of years

• Treated as an agricultural commodity no longer requiring special permits to be grown and returns the plant to a cash crop status.

• Classified by end use for commercial purposes and regulated at the point of processing

• Develop an African definition of Industrial Cannabis and moving away from the arbitrary .3% THC defined in Europe & North America.

• Drive Research & Development based on indigenous land race cannabis genetics and global best practice

• Respecting & protecting our heritage and the potential of our existing cannabis resource base
Allow access to cannabis for primary & preventative health care for all those that seek to benefit from the healing attributes of the plant at low price points to be available to the majority of our people and open the market.

The thinking around medical cannabis must be revisited to accommodate the consequences of the privacy judgement.

Two Tiers Pharmaceutical and Complementary / Indigenous

- Establish enabling cannabis healthcare / wellness regime where ONLY pharmaceutical grade medical cannabis for specific conditions is controlled and administered through SAHPRA.
- Establish enabling cannabis healthcare / wellness regime for complementary health care products for non-specific conditions use would fall under Traditional and Natural Health Products regulations with access to cannabis through a doctors’ or traditional healers’ recommendation which would entitle a person to become a recognised medical cannabis user.

Shift focus from cannabis for export towards developing a local market for cannabis health products.

Motivate for research and development based on efficacy, including indigenous knowledge and regional genetics to maximise South Africa’s competitive advantage which can be regulated outside of SAHPRA.

Open up and encourage academic medical cannabis research exploring new cannabis medicines and applications and soliciting international research & development funding.
Unanimously ruled that the personal use of cannabis is not a criminal offence in private. However this is limiting in that it allows only those with access to private land the right to grow cannabis, thereby excluding the vast majority of our people.

Therefore, the law needs to accommodate a reasonable trade in recreational cannabis to enable people without access to land as well as those who cannot or don’t want to grow for themselves the right to still use cannabis in the privacy of their homes.

Expand the Constitutional Court ruling based on the right to privacy, to include the ability to cultivate, extract, process, manufacture and sell cannabis-based products for recreational use, along the same lines that alcohol and tobacco are currently regulated.

State to formalise the existing illicit market and allow it to be taxed - the recreational cannabis market is a massive potential revenue generator for the fiscus whilst simultaneously positioning us to get ahead of the substance use concern.

Immediately establish guidelines for the SA Police Service to operate under that respect, protect, promote and advance cannabis users rights and stop arrests and police brutality towards marginalised communities that often face the brunt of police “dagga” operations.
• Cannabis Development focused on the development of Production corridors supported by Agro Processing Hubs
• Hub would support 20,000 hectares of production and represent a new social compact between government, private sector and community ownership
• Drive a series of decortication and extraction technologies required to process industrial cannabis supported by different processing lines
  • Process up to 50,000 tons of fibre and 120,000 tons of hurd
  • Employing up to 100 plant workers and 50 support workers.
• Farmer Income per hectare is difficult to accurately determine as there are many variables that are dependent on region, climatic conditions, seed strains etc. Conservative estimates per hectare indicate that:
  • Stalk biomass is worth R50,000,
  • Fibre R18,000,
  • Seed R155,000 and
  • Cannabinoids R100,000 per hectare.
• Working on an average, the income can be postulated at R175,000 per hectare, generating revenue of R350,000 for a small farmer on 2 hectares and net revenue of R3,5 billion per co-operative hub farming 20,000 hectares.
• Additional added value from developing finished products still need to be determined.
PROPOSED STRUCTURE FOR CANNABIS IN SA

• The Developmental State is central to introducing modelling and controlling cannabis production so as to ensure the benefit is carried to the majority of the rural poor.

• Cannabis is a National Asset & should be managed as such with the formation of a Cannabis Desk in the Office of the Presidency that could lead to the formation of a Cannabis Developmental Agency that is in line with our developmental state objectives.

• Design & implement of an industrial cannabis roll out strategy to develop the multi billion Rand cannabis value chain and to capacitate hundreds of thousands of small scale farmers, establishing cannabis agro-processing cooperatives that would grade & purchase cannabis for processing, extraction, manufacture and distribution.

• Implementation of a CDA comprised of lead officials from government departments, industry specialists, IKS practioners & community activists who are familiar with the plant and the potential value chains.

• The cannabis desk will be responsible for coordinating the Cannabis master plan for South Africa and liaising with all respective ministries.
Empower people by empowering our environment

We empower our environment by working with dagga as our primary reconstruction and development agent

We need to work with what we have which is our Indigenous Land Race Cannabis

Only indigenous cannabis aligns with the National Development Plan by unlocking the economic prosperity of the country with an environmental “bottom line” as the foundation for economic and social policy that allows us to address economic and environmental security and the growing impact of climate change.

Cannabis properly regulated, organised and managed to benefit the majority of our people will establish new pathways for rural development placing a hugely viable cash crop in the hands of the rural poor, marginalized and dispossessed.

Cannabis is a South African natural resource and should be managed in an innovative new social compact that recognises the potential of this high value cash crop
Thank You

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