

European policy on khat: Drug policy lessons not learned

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Policy Brief 2 | May 2014

Key Points

- The proposed UK ban represents an approach to drugs that has not worked in the past. Prohibitionist responses to intoxicants have resulted in the criminalization and stigmatization of the users they are intended to help as well as the growth of illicit black markets. That expert views were side-lined in the process reveals a troubling approach to law-making and one that is all too familiar in drug policy.
- Khat is a mild stimulant derived from the plant *Catha edulis* grown in countries of the Arabian Peninsula such as Yemen and in the Horn of Africa (Somalia, Ethiopia and Kenya). Migrants and refugees from these countries are the principal consumers of khat in North America and Europe, with the UK being the last to criminalise the shrub. The Netherlands, previously a key distribution point for khat supplies to immigrant communities in countries such as Norway, Germany and Sweden, introduced legal measures against khat in January 2013.
- Criminalisation of khat in key Northern markets represents a major economic blow to rural communities in East Africa and the Middle East that are dependent for their livelihoods on export revenue from khat. In the consumer markets of the North, legal prohibition may exacerbate already discriminatory practices in stop and search by drug police and risks opening the door for “newly formed criminal organizations [to] supply khat, turning them into serious, hardened organized crime structures” where none existed before.¹
- In the UK, a novel constitutional mechanism has been used to articulate concern at the pending criminalisation of khat, which is due to come into effect this month. The Motion of Regret sponsored by Baroness Smith, will be read in the first week of May. It echoes the position of the World Health Organisation and other expert bodies that the risk of individual health and social harms are too small to justify criminalising the substance.

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KHAT PRODUCTION, LEGAL STATUS AND EXPORTATION

Khat (*Catha edulis*) is grown on the Arabian Peninsula and the Horn of Africa, especially Ethiopia and Eritrea, and parts of Kenya, where it has enormous economic importance, as well as in parts of the Arabian Peninsula. Also known as *miraa*, khat grows on a tree whose leaves and twigs, when chewed, release the stimulant compounds cathine and cathinone with an effect that many compare to a mild amphetamine. The UN Office on Drugs and Crime notes that khat has been known for hundreds of years and its traditional use is widespread in the Horn of Africa and Western Asia.² Cathine and cathinone are prohibited substances under the terms of the UN drug convention of 1971,³ but khat itself is not subject to international control under the UN conventions.

Khat cultivation, transportation and use are illegal in some African and Middle Eastern countries (Eritrea, Tanzania) but not others (Ethiopia, Djibouti, Yemen, Kenya, Somalia).⁴ Until recently, khat sale and use were either not treated under the law or were not criminal offenses in most European countries, but they are illegal in the United States and Canada.⁵ Bilateral donors and the UN have generally denounced khat cultivation as a poor livelihood choice, and the International Narcotics Control Board, the treaty body for the UN drug conventions urges that khat be criminalized under national law like cannabis.

US policy toward khat in its borders underwent a dramatic change for reasons that could reasonably be concluded to be separate from the nature of khat itself. When khat was first noticed in the US in the early 1990s among immigrants from the Horn of Africa and the Middle East, the Drug Enforcement Agency was unperturbed, with a DEA official stating “We don’t really think that Americans would spend hours chewing leaves to get a mild rush of euphoria when they could get instant

effect from one gram of amphetamine”.⁶ During the failed military intervention of the US in Somalia in 1992-93, however, and following media portrayals of young Somali soldiers “high on khat”, a number of US states criminalized both khat and its active ingredients.⁷ (Under federal law, cathinone is a “schedule I” stimulant, meaning it has “a high potential for abuse” and can draw the highest criminal penalties;⁸ though the khat plant is not banned as such, it can still be the target of cathinone pursuits.)

UNODC asserts that land area in khat production grew 13-fold – from about 8,000 hectares to over 100,000 hectares – in the period 1982-2012.⁹ The UN agency characterizes this growth as harmful for the regions concerned because of use of water associated with khat cultivation and the “crowding out” of food crops.¹⁰ But this conclusion does not reflect the situation in all khat-producing regions.

- In Yemen, government officials, academic experts and other observers have noted that khat production in this desert country depletes scarce water supplies to a very significant degree as production attempts to meet the high demand for consumption.¹¹
- In Ethiopia, the world’s largest producer of khat, the situation is different. A number of detailed studies have shown that in parts of Ethiopia, particularly in the highlands of the Hararghe region, khat is of extreme importance to poor rural households because it is drought-resistant, it has low start-up costs (khat trees continue to produce once established), it reduces the need for oxen for ploughing and allows households to keep more cost-effective milk-producing livestock such as sheep and goats, it carries low risk of loss, and it generates high value per unit of land and water used.¹²

Khat can be interplanted with food crops, particularly maize, enabling food to be grown in the Ethiopian and Kenyan highlands in a lower-risk system than monocropped maize.¹³ In Hararghe region, khat holdings by rural households are associated with greater food security and better nutritional status of children.¹⁴ Low-income households benefit relatively more than high-income households, according to Tefera, partly because while khat gives much higher yields when irrigated, even when not irrigated – as in the fields of lower-income people who can't afford irrigation systems – it provides reliable revenue at low risk. As Tefera noted following his in-depth study of 600 households in Hararghe:

The Hararghe highlands are characterized by drought-proneness, high population pressure, rugged and steep slopes, severe soil erosion and hence low levels of productivity and income from staple crops... The [agricultural] strategy ought to be conservation-based, less risky and able to generate high return per unit of scarce land/water. Currently khat is the only crop that can best fit the local context.¹⁵

- A peer-reviewed study in the Mbeere district of Kenya – a semi-arid region – similarly concluded that the “majority of farmers have embraced khat production as a diversification strategies to boost their income as well as mitigate the production risks inherent in food crop production.”¹⁶

Khat is an important export crop, especially for Ethiopia and Kenya. In 2013, it was estimated that the value of khat exported from Kenya to the UK alone was over \$26 million per year and from Kenya to the Netherlands until 2012 about \$19 million annually.¹⁷ At various times in recent years, khat has been Ethiopia's second most lucrative export product after coffee,¹⁸ but in 2012-13, it was estimated that khat export revenues for Ethiopia at \$271.5 million were in third place behind those of coffee (US \$764.4 million) and gold (\$578.8 million).¹⁹ This sum nevertheless is extremely important for one of the world's lowest-income countries.

KHAT CONSUMPTION AND ITS CONSEQUENCES

As Figure 1 shows, prevalence of use is very high among men in Djibouti and Yemen and lower but still significant among women in those countries. Consumption of khat has also reportedly grown significantly in Ethiopia in recent years.²⁰ In addition to cultural use at weddings and other events and recreational use, khat is used by farmers and other workers as a stimulant to enable them to work long hours at a stretch.²¹ A 2011 World Bank study reported that in Djibouti, where khat is generally imported (and therefore more costly than in neighbouring Ethiopia) since it is a desert country, an average of about 20 percent of household income was spent on khat in the households it surveyed.²² Consumption of khat is of relatively recent origin in Europe and North America and is predominantly among populations in diaspora from countries where khat use has a long tradition.

For the Muslim Oromo [from Ethiopia], khat is valued for its critical role in such productive activities as work, meditative worship and cultural ceremonies. Farmers chew it for energy in their labour-intensive daily activities, and religious devotees for all-night sessions of prayer during Ramadan. Khat is also chewed on such important events as births, marriages, funerals and naming ceremonies. During the festivities of the popular wadafa ritual – a ceremony of group prayer performed at times of illness, death or calamity – large amounts of khat are consumed.... As such, khat chewing plays an integral role in Oromo cultural institutions that facilitate social interaction and cultural integration.

Ezekiel Begissa, Kettering University²³



Figure 1: Annual prevalence of khat use in Djibouti (2006) vs. Yemen (2011)

Source: UNODC, *2013 World Drug Report*, p 97

While there is a high proportion of khat consumers in some countries and communities with traditional use, many health authorities have generally concluded that the vast majority of users have moderate use and that khat consumption overall does not pose a public health risk.

- The global authority on public health problems associated with drug consumption, the World Health Organization’s Expert Committee on Drug Dependence, is the body that recommends to the International Narcotics Control Board whether a given drug should be “scheduled” or prohibited under the terms of the UN drug conventions. The

Expert Committee reviewed the case of khat in 2006 and concluded that “the potential for abuse and dependence is low,” and recommended that khat not be subject to treaty-based prohibition.²⁴ With respect to dependence, the Expert Committee noted: “Withdrawal symptoms after prolonged use may include loss of energy, lethargy, depressive feelings and slight trembling, but these symptoms are mild and resolve rapidly.”²⁵ Noting also the widespread use of khat in social gatherings in some communities, the Committee “recognized that social and some health problems result from the excessive use of khat and suggested that national educational campaigns should be adopted to discourage use that may lead to these adverse consequences,”²⁶ – that is, the kinds of campaigns that have succeeded in reducing tobacco consumption in some settings.

- The WHO Expert Committee’s conclusions have been echoed in studies undertaken in European countries to inform policy as they observed khat use especially in migrant communities. Perhaps the most extensive government-sponsored study of khat has taken place in the United Kingdom. The UK government commissioned its Advisory Council on the Misuse of Drugs to study the evidence on individual and social harms of khat several times, most

recently in 2013. This Council of eminent experts concluded that “it would be inappropriate and disproportionate” to classify khat under the 1971 Misuse of Drugs Act – that is, to consider its use, sale and possession criminal acts.²⁷

- An earlier study commissioned by the government of the Netherlands, which was overseen by a committee of expert toxicologists, criminologists, pharmacologists and sociologists, also concluded that “acute” health problems associated with khat were rare, the public was not harmed by khat use in the Netherlands, and khat has low potential for addiction.²⁸ Khat was legal in the Netherlands at the time, and the authors noted no sign of criminal involvement, indeed underscoring that khat has a low profit margin partly because sellers know that the main customers, migrants from the Horn of Africa, are a generally low-income group.²⁹ The expert panel recommended that there be no legal prohibition of khat in the Netherlands.

UNODC nonetheless notes that khat use has been found to be associated with “tooth decay, high blood pressure, sleeplessness [not surprising as it is a stimulant], constipation and, in some cases, depression, paranoia and oral cancer.” Contrary to UNODC’s claims on the clinical impacts of khat use, the UK expert group, like WHO before it, rigorously reviewed published clinical evidence and concluded that it is impossible to impute a causal connection between khat use and these adverse outcomes.

Considering wider social harms, the UK expert group interviewed community organizations, social service providers and other observers in numerous UK locations. The group concluded that khat consumption is limited to diaspora communities – mostly Ethiopians, Somalis, Yemenis and Kenyans.³⁰ The concern raised by

some community members that recreational khat consumption might render people unable to find or keep a job was not confirmed in the research reviewed by the Advisory Council, which concluded that “the majority of users moderate their consumption to fit in with work patterns.”³¹ The Council acknowledged the concerns expressed especially by Somali women in the UK that khat consumption was associated with “family breakdown”. It took note of a study conducted in Denmark on this link, which concluded that “heavy khat users” were more likely to be divorced than other men, but noted that the methods of this study did not allow the authors to determine definitively whether khat use was a cause of divorce or a consequence.³²

The Advisory Council also investigated the “commonly expressed concern” that money spent on khat, especially by men, cut into resources for meeting basic needs of the household. Research reviewed by the Council indicated that the average moderate UK consumer would spend about £24 per week on khat leaves,³³ though of course there would be some heavy users. The Council also found no compelling evidence to confirm media reports that khat sales or production was associated with organized crime.³⁴ Distinct from this discussion, the Advisory Council also noted that the UK derived some £2.8 million (about US\$4.7 million) annually in tax revenues from the khat market.³⁵

CHANGING POLICIES IN EUROPE

In spite of the compelling published evidence from their own studies, the governments of the Netherlands and the UK made the decision legally to ban khat importation and use in their territories. Announcing the Dutch decision in January 2012, the spokesperson for the Ministry of Immigration said that there were signs of problematic use of the drug among about 10 percent of Somali khat users,³⁶ though it is not clear where this figure came from. The

official statement of the government noted that “moderate use does not cause major problems” but heavy use leads to poor health and “socio-economic disadvantage.”³⁷ Thus, the decision was framed as being motivated by a wish to protect a minority community. Government spokespersons also noted that as one of the only continental European countries still allowing legal sale and use of khat, Netherlands had become a centre for khat distribution in Europe.³⁸

In her proposal to ban khat, UK Secretary of State for the Home Department Theresa May acknowledged the scientific evidence that led the government’s own commission to recommend no criminalization, but noted that with khat bans in most other European and North American countries, a legal khat market in the UK “would place the UK at a serious risk of becoming a single, regional hub for the illegal onward trafficking of khat” to other countries.³⁹ May further noted, (in contradiction to the 2013 government report), that khat “continues to figure prominently amongst the health and social harms” and that the government might risk underestimating the harms of khat “owing to the limitations of the evidence base”.⁴⁰ In the UK, the change proposed by Home Affairs requires only committee endorsement in the House of Commons, which it received, and the ban will go into effect in late May 2014 unless there is a public outcry. The House of Lords during the week of May 6 is scheduled to consider a “motion of regret” denouncing the proposed ban brought by Baroness Smith of Basildon. The regret motion, even if it passes, cannot stop the ban, but it can officially add an argument against the ban.

The Dutch and UK decisions provoked a quick response from khat-growing regions of Africa. Kenyan officials said that the livelihood of a half million people in Kenya would be put in jeopardy by khat criminalisation in the UK.⁴¹ The Kenyan government and local authorities in khat-growing regions announced that they

were joining a lawsuit against the UK on the grounds that the ban was incompatible with the cultural rights of people in the UK’s Kenyan and Somali communities for whom “khat is part of a long-standing and established social, cultural and ethnic custom and tradition.”⁴² One Kenyan parliamentarian decried the decision as “political and discriminatory.”⁴³ Kenyan farmers reacted to the earlier Dutch decision noting that their livelihood was being undermined without any consultation with them or their government.⁴⁴ According to Tesfaye Lemma Tefera, senior expert, International Livestock Research Institute, Addis Ababa:

...due consideration must of necessity be given to the potentially devastating damages that the policy of hastily criminalizing khat production and trade could have on the livelihood of the rural poor and on the struggling Ethiopian export sector.

Despite the impact on livelihoods and development, the UK Department for International Development has no programme that directly targets support to the affected communities.

Neil Carrier, a lecturer at Oxford University and expert on khat, noted that with the ending the legal market for khat in Western Europe, organized crime would take over the market since it was unlikely that consumption would decline among those who find it to be an important part of their lives and culture.⁴⁵ Indeed the UK government-commissioned study of khat in 2013 found no evidence that legal khat markets were in any way linked to organized crime and that there was no evidence “suggesting that the UK is a landing point for the onward transportation of significant quantities of khat.”⁴⁶ Carrier asserted that if the key concern was really the matter of onward trade to countries where the khat market is illegal, there are

oversight mechanisms to minimize such concerns, and licensing and other measures could have helped to control negative aspects of consumption.

Carrier notes another serious risk of the UK decision:

[T]hose who continue chewing [khat] face not just moral reproach from others in the community but criminal proceedings if reported to the police. Furthermore, Somali men in particular are likely to be subject to police stop and search should effort be put into curbing its use.⁴⁷

If so, this development would exacerbate already well documented racial discrimination in drug-related stop and search practices in drug law enforcement in the UK.⁴⁸

CONCLUSION

Drug policy-makers should benefit from lessons of policies in a number of countries that have succeeded in reducing both the harms associated with drug use and the harms associated with repressive law enforcement approaches to drugs. One such lesson, exemplified by the experience of several European countries, is that it can make good sense to distinguish levels of harm associated with different drugs and to design policies so as to focus policing and criminal justice interventions on the most harmful elements of the drug trade. Several countries, for example, have undertaken rigorous studies of the social harms associated with cannabis, judged them to be significantly less than those associated with heroin or cocaine, and adjusted their policies accordingly.

The UK and the Netherlands commissioned distinguished scholars and experts to study the social and clinical harms of khat. These experts argued that any harms associated with

khat did not require a criminal law response. In rejecting that conclusion and banning khat, these two governments have created an enabling environment for organized criminal networks and may exacerbate racial discrimination in drug law enforcement. Moreover, these policies put in danger the livelihood of thousands of people in some of the world's lowest-income settings.

The UK and the Netherlands should at the very least be taking measures to mitigate all of the harms that have been made much more likely by these decisions. That is:

- The bilateral development agencies of the two countries should dedicate significant program resources to developing lucrative alternative livelihoods in the affected khat-growing areas.
- Law enforcement officials and police monitoring bodies should take particular care to ensure that these decisions will not create or exacerbate racial discrimination in drug policing.
- Anti-corruption and anti-organized crime officials should be prepared to minimize the harms, including the possibility of violence and extortion, in affected communities from the inevitable development of illicit khat markets.

The UK ban is an unwelcome development that lacks an evidence base and harm mitigating measures.

ACKNOWLEDGEMENTS

Thanks go to Julia Buxton, Dave Bewley-Taylor and Giles Pattison who helped in various ways with this policy brief. Any errors of fact or interpretation remain the responsibility of the author.

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