Immoral in principle, unworkable in practice:

Cannabis law reform, the Beatles and the Wootton Report

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*In the late 1960s, the cause of cannabis law reform briefly rose to remarkable cultural prominence in several Western countries, notably the UK and the United States. Some 50 years later, as global cannabis prohibition is once again coming under intense critical scrutiny in many parts of the world, this paper revisits the events of the 1960s. Drawing on primary archival research, the paper recovers the story of the rapid emergence and development of the reform movement. The importance to reform discourse of ideas of personal freedom and civil liberties is explored and set in the context of wider shifts in liberal governance. In conclusion, it is argued that the challenge of cannabis regulation today needs to be understood in the context of contemporary regulatory capitalism.*

Keywords: cannabis, drug law reform, legalisation, Wootton report, counter-culture, regulation

We wanna be free to do what we wanna do […] And we wanna get loaded and we wanna have a good time. And that’s what we’re gonna do […] We’re gonna have a party. (Peter Fonda as ‘Heavenly Blues’ in *The Wild Angels*, 1966)

*Introduction*

On July 24th 1967, a full-page advertisement appeared in *The Times* newspaper. It declared that the laws prohibiting personal use of cannabis were ‘immoral in principle and unworkable in practice’ and called for radical reform. Signatories to the advertisement included all four Beatles, their manager Brian Epstein, two sitting Members of Parliament and numerous luminaries of British society, including the psychiatrist R.D. Laing, Nobel prize-winning biologist Francis Crick and artist David Hockney. It came to represent a short-lived period, perhaps no longer than three years, in which cannabis law reform achieved social, cultural and political salience, not only in the UK but also in the US and some other Western countries. Fifty years later, what might we have to learn from the events of the late 1960s?

This historical moment has typically been interpreted in the context of the mythologies of the ‘Sixties’ (e.g. Green 1999). Less common have been accounts which foreground its place in trajectories of drug policy development or in the wider socio-political context of the late twentieth century, a partial exception being James Mills’ *Cannabis Nation* which includes an insightful chapter on the 1960s (Mills 2013:116-154). This paper seeks to provide a critical historical account of this episode by asking a simple question: how did it happen? In answering this question, the paper draws on primary archival sources[[1]](#footnote-1) and seeks to recover the story of how this episode unfolded, as a contribution to historical work on drug law reform. In theoretical and methodological terms, it draws on recent advances within historical criminology (Churchill 2019) in order to develop an historical synthesis informed by what Yeomans (2019) terms a three-dimensional criminological imagination: connecting the contingent and the social by viewing them historically (see also Sewell 2005).

The events of the 1960s described here also marked the point when cannabis laws started to become highly contentious in the UK and elsewhere. In the following decades, the policing of cannabis has periodically been at the heart of tensions between state authorities, young people and marginalised communities (e.g. May et al 2002). In particular, the connection between the enforcement of cannabis laws and racial injustice has been a long-running concern (Glasser 2000; Shiner et al 2018). We now appear to be at a pivotal moment when the prohibition paradigm is unravelling – at the start of 2020, just over 50 countries had some form of cannabis decriminalisation and/or legalisation in place – and commercial forces are sweeping into these new business spaces. Thinking historically about the problem is critical at this juncture, if we are to avoid taking the wrong regulatory path and repeating some of the mistakes that have been made with the regulation of alcohol and tobacco.

The paper begins with a brief history of cannabis prohibition, setting the background for what follows. The main body of the paper is structured around a broadly chronological account of this episode in the late 1960s in which cannabis law reform moved centre stage, recovering the multiple forces and contingencies which came together to shape it. It then argues that to make sense of this story, we need to locate it in the context of consumer capitalism and to understand the centrality of an inter-connected set of ideas of freedom, liberties and rights. In conclusion, the paper discusses some implications of this historical analysis for contemporary perspectives on cannabis law reform.

*A brief history of cannabis prohibition*

The origins of human cultivation of cannabis can be found in the ancient world in Central Asia (Courtwright 2001:39; Booth 2003:17). Its slow geographical spread from Asia was linked for thousands of years to its diffusion along ancient trading routes, and then later on its intertwining with stories of empire, the slave trade and the emergence of the modern global economy (Warf 2014). In contrast to this long historical trajectory, the international prohibition of cannabis is still less than a century old, dating back to the 1920s. Before this, during the nineteenth century, there had been occasional localised prohibitions (see Bewley-Taylor et al 2014:8-11). Perhaps the first example was in Brazil in 1830, where a municipal regulation in Rio de Janeiro criminalised the sale and use of cannabis (Henman 1980:285). In Egypt, various prohibitive measures were enacted between the 1860s and 1890s (Kozma 2011; Bewley-Taylor et al 2014:9), whilst in Greece a law in 1890 banned cannabis importation, cultivation and consumption (Ballotta et al 2008:100-101). An interesting example is South Africa where in 1870 cannabis use by Indian immigrants was prohibited (Du Toit 1977), an early case of the prohibition impulse being rooted in racialised discourse (see Seddon 2016). The experience of cannabis in colonial India during this period led to the establishment of an inquiry that would produce what came to be viewed as a landmark report, the Indian Hemp Drugs Commission Report published in 1894 (Shamir and Hacker 2001). The core conclusion of the Report was that the prohibition of cannabis was unnecessary and that consumption was not in itself unduly harmful.

The earliest serious discussion of cannabis prohibition at international level took place at the International Opium Conference held in The Hague in 1911, with the matter raised by the Italian delegation concerned at cannabis smuggling in parts of its North African colonies (Bewley-Taylor et al 2014:13). After the First World War, as international drug control came under the auspices of the League of Nations, the issue of cannabis was formally raised by South Africa in late 1923. At the Second Opium Conference which was convened in Geneva at the end of 1924, the Egyptian delegate proposed widening their deliberations to encompass cannabis – a move supported by Brazil, Greece, South Africa and Turkey – and this eventually led to the inclusion of cannabis in the 1925 Geneva Opium Convention (Bewley-Taylor et al 2014:14-16). The Geneva Convention introduced relatively limited controls on transnational trade and did not require signatories to prohibit or restrict domestic production and consumption (Kendell 2003). Nevertheless, it marked a turning point, as individual countries began to implement national cannabis prohibitions, as, for example, in Britain via the Dangerous Drugs Act 1928. It was only in the 1930s that the United States started to take a lead at an international level – it was not a member of the League of Nations and had withdrawn from participation in the Geneva Conference – and its own federal prohibition was not passed until 1937. After the Second World War, with the United States the dominant world power, the ratchet began to be tightened, culminating in the 1961 Single Convention on Narcotic Drugs which consolidated the global prohibition of cannabis (Bewley-Taylor et al 2014:18-25; Bayer and Ghodse 1999:8-10).

It would be a mistake to think that the trajectory of cannabis prohibition during this period was inexorably in one direction. In fact, the contrary view set out in the previous century’s Indian Hemp Drugs Commission Report continued to be returned to. One of the most well-known instances was the Committee that was set up by the Mayor of New York in 1939 to investigate growing concerns about the cannabis problem in the city. The 1944 LaGuardia report, as it became known, concluded that the dangers of cannabis had been significantly exaggerated (Mayor’s Committee 1944). Both the LaGuardia and the Indian Hemp Commission reports were repeatedly referenced by the 1960s reform movement. The influential collection *The Marihuana Papers* published in 1966 (Solomon 1966) included extended extracts from the former and the equally important anthology *The Book of Grass*, published the following year, contained a few pages from the latter (Andrews and Vinkenoog 1967).This continuity reminds us that the prohibition of cannabis has always been an unstable legal-policy position.

*Cannabis law reform in the late 1960s*

Both before and after its prohibition in 1928, cannabis use in British society was extremely limited. This started to shift slowly in the 1950s, partly as a result of the impact of the British Nationality Act 1948, which allowed migrants from the British Empire to come and live in the UK (Hansen 1999). As these new arrivals from the Caribbean, parts of Africa and South Asia settled in towns and cities across the country, some of their new young neighbours became interested in the music and cultural habits they brought with them, including cannabis smoking[[2]](#footnote-2) (Mills 2013:62-74; Davis 2006). This was also the decade that saw the first emergence of a distinctive youth culture, linked to the wider consumer society that was evolving (Marwick 2006). As subcultural theorists have described, these elements of multiculturalism, music and drug-taking were central to the bricolage of the new youth subcultures (Hebdige 1979). Nevertheless, even at the very end of the 1950s, smoking cannabis was still a relatively rare and unusual activity, concentrated in very specific communities and groups (Spear 1969).

This began to change. According to Mills (2013:117-118), as early as 1961 the police were becoming aware of cannabis spreading to students and other young people. Numbers of cannabis convictions had in fact been rising steadily from 1959 but nearly doubled between 1961 and 1962, before exploding from 1966 (Spear 1969:246). As the decade unfolded, cannabis became particularly associated with the ‘counter-culture’, in part because it was an intoxicant ‘loaded with symbolic meaning’ as the drug associated with the colonized subjects of Empire (Mills 2013:118). For young people seeking to challenge the established social and political order, smoking cannabis could be both a private act of hedonist consumption and a public act of political resistance (see Young 1971). Challenging its prohibition would be an obvious next move for counter-cultural leaders, especially in the wider context of a society which seemed at this time to be moving in a more ‘permissive’ direction in a number of areas, notably in relation to homosexuality, abortion and divorce.

One beginning for the story of this counter-cultural challenge is in Oxford at the start of the decade. An American graduate student, Stephen Abrams, arrived at St Catherine’s College in 1960 to study extrasensory perception. As we will see, Abrams was to become a pivotal figure in the events of 1967. At Oxford, as well as becoming involved in the cannabis scene, he befriended Francis Huxley, an anthropologist and from 1962 also a Fellow of St Catherine’s. In the autumn of 1966 the two men first had discussions about the ‘advisability of embarking upon a campaign for cannabis law reform’[[3]](#footnote-3). Later in 1966, Abrams wrote an essay entitled ‘The Oxford Scene and the Law’, intended for publication in the anthology *The Book of Grass* (Andrews and Vinkenoog 1967). A national newspaper published its key findings in January 1967, including its incendiary assertion that in Oxford at least 500 students and a ‘few dozen’ dons were smoking cannabis.

Debate about the cannabis issue broke out in the pages of *Cherwell*, the Oxford student newspaper, in early 1967 where Abrams announced on February 1st the launch of a new drugs research outfit, SOMA. This story was picked up nationally by *The Daily Mail* with the headline declaring ‘Make it legal to take marijuana, urges Oxford student’[[4]](#footnote-4). Following a launch event for *The Book of Grass* in London the following day, more publicity ensued, again centring on Abrams’ claims about the Oxford scene (e.g. in the *Daily Telegraph* the headline for the short report was ‘Oxford man defends hemp claims’[[5]](#footnote-5)). With an instinct for keeping a story going, Abrams then wrote a letter to the Editor in reply to the *Telegraph* article, which ended with a rebuke to the ‘authorities’ trying to deny his estimate of the prevalence of cannabis smoking: ‘my estimate was based on four years’ direct observation […] perhaps I have sources of information which are unavailable to the Chief Constable, the proctors and various anonymous university officials’[[6]](#footnote-6). Abrams was invited to give evidence to the University Committee on Student Health on February 20th, the Committee being chaired by the Head of St Catherine’s College, Alan Bullock[[7]](#footnote-7). He pressed Bullock to write to the Vice-Chancellor to urge him to ask the Home Secretary to set up a national enquiry. The Committee agreed and Bullock subsequently enlisted Abrams to help him draft a letter for the Vice-Chancellor.

The epicentre of the counter-culture was in London and cannabis was becoming an increasingly central part of life and events there. In October 1966, Barry Miles, John Hopkins (known to all as Hoppy) and other friends started *International Times* (*IT*), the underground newspaper, based in the Indica[[8]](#footnote-8) Bookshop and Gallery in central London. In the early issues of *IT*, in the autumn and winter of 1966, ‘drugs received substantial coverage’ (Green 1999:156). One of the co-owners of Indica was Peter Asher, the brother of Jane Asher who at that time was Paul McCartney’s long-term girlfriend. McCartney became friends with Miles and provided some financing and other help to Indica. To the shock of many on the scene, Hoppy was arrested on December 30th 1966 and charged with allowing his flat to be used for the smoking of cannabis. On February 12th 1967, another set of drug arrests took place that would reverberate even louder within the counter-culture: police raided a party at Keith Richards’ country house and both Jagger and Richards were arrested for drug offences, the latter for allowing his premises to be used for cannabis smoking (Green 1999:177-179).

In January 1967 another important part of the story began, as Tony Smythe, then General Secretary of the National Council for Civil Liberties (NCCL), sent out a series of letters inviting people to serve on a committee ‘to discuss the civil liberty aspects of drugs and drug taking’[[9]](#footnote-9). The Advisory Committee on Drugs (ACD) met several times between February and July, mainly focused on the preparation of its pamphlet ‘Drugs and Civil Liberties’. Committee members included Abrams, as well as David Downes, then a young sociologist who had just published his first book *The Delinquent Solution*. The date of the first meeting of the NCCL ACD was February 28th, co-incidentally the same day that, following Abrams’ promptings, the chair of the Oxford Committee on Student Health wrote to the University’s Vice-Chancellor to recommend that he should press the then Home Secretary, Roy Jenkins, to set up a national enquiry into the drug question ‘as a matter of urgency’[[10]](#footnote-10). A few weeks later, following a phone call between the Vice-Chancellor’s office and the Home Office Private Secretary, the letter to Jenkins was sent on March 15th.[[11]](#footnote-11)

Much of the ACD discussion was focused initially on heroin. Indeed, at the very first meeting on February 28th the point was made that ‘although there was no valid reason for legally restricting the use of ‘pot’ […] it was not considered a civil liberty issue’[[12]](#footnote-12). This position soon shifted and at the meeting on April 4th, members of the group referred to concerns about the impact of law enforcement relating to cannabis[[13]](#footnote-13):

Particular targets for oppressive measures were teenagers and other young people. It was noted dogs were now being frequently used to track down cannabis; frequent raids were being carried out on certain clubs or other establishments without any arrests resulting; and an enormous increase in the number of allegations of police planting cannabis on young people.

Such concerns have, of course, been a recurring theme in accounts of the policing of cannabis throughout the last 50 years (e.g. May et al 2002). By the meeting on 18th July, the ACD had started to develop what the minutes record as a ‘draft of possible basic Civil Liberty approach to drug question’[[14]](#footnote-14):

Complete prohibition can only be justified for killer and/or proved addictive drugs which are really in the same category as poisons. Other drugs may need controlling and restricting in the same way as alcohol or tobacco, and may need discouragement. Whether one thinks hash, LSD etc a good or bad thing, Civil Liberties must, prima facie, be against prohibition.

By the time of the report’s publication later in 1967, this had been distilled into a version of a classical liberal position:

It is a basic civil liberty principle that what people choose to do to themselves in private is their own business, providing that it is not harmful to other individuals or society in general. (NCCL 1967:1)

On April 7th, a few days after the second meeting of the NCCL Committee, a Sub-Committee of the government’s Advisory Committee on Drug Dependence was appointed to examine the question of the misuse of cannabis and LSD. Chaired by Lady Wootton, this Sub-Committee would meet 17 times between May 1967 and July 1968[[15]](#footnote-15). It would later agree to publish separate reports on the two substances, prioritising the cannabis report which would become widely known as the Wootton Report[[16]](#footnote-16). The Sub-Committee met twice in May. A variety of background papers were provided before the first meeting on the 11th, including a *Playboy* interview with Timothy Leary and a detailed note on the ‘Pharmacology of Cannabis (Hashish)’ prepared by Dr J.D.P. Graham, a Reader at Cardiff University, which as well as stating that cannabis was ‘not very poisonous’ and created ‘no physical dependence’ also observed that its use is ‘often an expression of freedom seeking or defiance’[[17]](#footnote-17).

On June 1st, the same day as the official release of the Beatles’ *Sergeant Pepper* album which would become emblematic of the cultural zeitgeist of that summer, Hoppy was sentenced to nine months imprisonment. The severity of his punishment caused serious concern and the following day a group of Hoppy’s friends, including Abrams, gathered at the Indica Bookshop to discuss his plight. A plan was agreed to place an advertisement in *The Times*, a suggestion made by Abrams. Miles approached Paul McCartney about the potential financing of the advert and he immediately agreed to cover the £1800 cost. Abrams and Miles went to McCartney’s house the following day and ‘talked for several hours’, Abrams being struck that the Beatle was ‘far more intelligent than I imagined’[[18]](#footnote-18). According to Abrams (1993), before they left, McCartney gave him a copy of *Sergeant Pepper* with the instruction to listen to it through headphones on acid.

As Abrams himself acknowledged[[19]](#footnote-19), the idea for an advert of this kind had come from an article published in November 1966 in *Atlantic Monthly* by the American Beat poet Allen Ginsberg (1966) in which he proposed a similar venture:

A full-page paid advertisement in the *New York Times*, quoting authoritative medical evidence of the harmlessness of marijuana, and signed by a thousand of its most famous smokers, would once and for all break the cultural ice and end once and for all the tyranny of the Treasury Department Narcotics Bureau.

Transplanted to the UK, the idea of advertising in a national newspaper would become the focal point of the intense activities and events that would unfold in June and July. A week after Hoppy’s sentence, the Wootton Committee met for the third time on June 8th. The group was grappling with some of the emerging issues. In appraising the available evidence, for example, they noted that ‘it is difficult to correlate the somewhat inadequate information regarding the social disruption caused by the drug in India, the Middle East and African countries with the present situation and its potential dangers in UK’. Having stated that ‘harm would result from decontrolling [cannabis] nor could this be done without agreement of other signatories to the Single Convention’, they then went on to discuss the question of ‘to what extent should young people be prevented from taking such risks with drugs without at the same time unduly curtailing their personal freedom?’[[20]](#footnote-20).

The trial of Jagger and Richards took place from June 27th to June 30th. For permitting his premises to be used for cannabis smoking, Richards was sentenced to one year of imprisonment (Jagger’s amphetamine sentence was three months) and both were released on bail pending their appeal. Following so quickly after Hoppy’s imprisonment at the beginning of the month, the Stones’ sentences caused consternation within counter-cultural circles and beyond. A spontaneous demonstration outside the offices of the *News of the World* – the paper was suspected by many of using an *agent provocateur* in the arrests (Abrams 1993) – took place that evening and for the following two nights. It was during this demonstration that art student Caroline Coon met radical lawyer Rufus Harris and the pair decided to set up a new organisation to be called Release to provide legal advice to victims of the drug laws (Green 1999:189-190). Coon had become engaged in the issue after her Jamaican boyfriend was sentenced to two years’ imprisonment for possession of a single cannabis joint (Mold 2006:55). On July 1st, *The Times* published its famous leader by William Rees-Mogg, ‘Who breaks a butterfly on a wheel?’, deprecating what it viewed as the excessive and disproportionate punishments handed out to Jagger and Richards. On July 2nd, several of the Sunday newspapers published stories critical of the way the cannabis laws were being enforced[[21]](#footnote-21). The NCCL circulated a note on the Stones case dated July 6th to various MPs. It stated that the case ‘highlights a number of civil liberty issues’ and that ‘the criminal prosecution and the sentence of imprisonment on Richards for a comparatively harmless act conducted in private illustrates the urgent need for official attitudes to cannabis to be reviewed’[[22]](#footnote-22). The following weekend, *The Sunday Times* contained a page of readers’ letters to the editor in response to the articles on the Stones case published the week before, headlined ‘Savage sentences may backfire’[[23]](#footnote-23). Over the page there was a brief feature on Abrams, anticipating the imminent advertisement[[24]](#footnote-24).

On July 16th, a ‘Legalize Pot’ rally took place in Hyde Park in London, co-organised by Abrams. Handbills for the event requested ‘flower power people please bring flowers’[[25]](#footnote-25). Newspaper reports at the time gave the attendance as ‘several hundred’[[26]](#footnote-26), although others later claimed there were thousands there (e.g. Abrams 1993). Allen Ginsberg spoke at the event and led a series of Indian chants accompanying himself on a harmonium which was subsequently confiscated by the police. Newsreel footage shows people carrying placards saying, variously, ‘Free Hoppy’, ‘Love’, ‘Legalize Pot’, ‘Freak Out’, ‘Change the Drug Laws’ and ‘Flower Power Now’.

Abrams was still working hard to secure signatures for the *Times* advertisement. Two days after the Hyde Park rally on July 18th he wrote to McCartney, stating ‘I would very much like to have Ringo’s signature, together with Brian Epstein’s’[[27]](#footnote-27). Those two signatures did appear when the advert was published less than a week later, Ringo’s name rendered as ‘Richard Starkey MBE’[[28]](#footnote-28), suggesting that the finalising of the list of signatories went close to the wire.

On the 24th July, the advert appeared, under the headline ‘the law against marijuana is immoral in principle and unworkable in practice’. It declared sponsorship by SOMA and was silent on the actual funders of the advert, although this had already been leaked by *The News of the World*. On the left-hand panel of the advert, the 64 signatories recommended to the Home Secretary a five-point programme of cannabis law reform:

1. The government should permit and encourage research into all aspects of cannabis use, including its medical applications.

2. Allowing the smoking of cannabis on private premises should no longer constitute an offence.

3. Cannabis should be taken off the dangerous drugs list and controlled, rather than prohibited, by a new *ad hoc* instrument.

4. Possession of cannabis should either be legally permitted or at most be considered a misdemeanour, punishable by a fine of not more than £10 for a first offence and not more than £25 for any subsequent offence.

5. All persons now imprisoned for possession of cannabis or for allowing cannabis to be smoked on private premises should have their sentences commuted.

The main part of the advert, underneath a quotation from Spinoza on the folly of laws that seek to regulate human desires, set out the core arguments for reform. It addressed the increase in use across society, comparisons with the harms of alcohol, the ‘gateway theory’ (that heroin addicts all start on cannabis), potential medical uses of cannabis, the threat to civil liberties of enforcing the law, and ended by drawing a parallel with the failure of alcohol prohibition in the United States in the 1920s. Lastly, on its right hand panel, under the heading ‘Medical Opinion’, a series of quotations from medical doctors were presented, repeating the themes that cannabis was relatively benign for health, non-addictive, and did not lead to heroin addiction.

Unsurprisingly, the advert stirred considerable controversy. An adjournment debate on the advert took place in Parliament on July 28th, called by Guinness heir and Conservative MP, Paul Channon[[29]](#footnote-29). The day before the debate, Abrams’ partner Jane wrote to Channon, with the ‘information for your debate tomorrow’. She referred to several pieces in *The Marihuana Papers* and *The Book of Grass*, adding that he ‘should read […] the evidence given by Tom Driberg’s father to the Indian Hemp Commission’[[30]](#footnote-30). Driberg was one of the two sitting Members of Parliament to sign the advertisement and also spoke in the debate, noting the criticisms of the advert but arguing that he did not think that ‘doctors and scientists, including two Nobel prizewinners, would have signed if this had been a completely irresponsible thing to do’. The thrust of Channon’s speech was the need to recognise the rise in cannabis use amongst what he called ‘respectable’ people, which demanded a pragmatic approach more like that used for alcohol. Abrams observed the debate from the Strangers’ Gallery above the floor of the Commons chamber.

A week after the *Times* advert, on July 31st, Jagger and Richards had their appeal hearing. Richards’ cannabis conviction was quashed and Jagger’s sentence significantly reduced to a conditional discharge. Later that day, Jagger appeared on the television programme ‘World in Action’, taking part in a discussion about drugs and the drug laws. One of the participants was the Editor of *The Times*, William Rees-Mogg, who recalled twenty years later:

I was fascinated by the way all his arguments turned on those classic propositions that people ought to be absolutely free and that there ought to be as little government as possible. As he put forward these views […] I suddenly realised that Mick Jagger was in essence a right-wing libertarian. Straight John Stuart Mill! (quoted in Taylor 1987:128)

This emphasis on individual personal freedom was in fact a key dimension of the counter-culture, as Green (1999:157) argues, coupled with what he terms a ‘disdain’ for conventional politics. The letters page in *IT* in the first couple of months of 1967 included an interesting thread of correspondence on the importance of stepping back from the machinery of politics entirely[[31]](#footnote-31). Although radical causes were unflinchingly supported, the sole animating editorial ideology was ‘absolute libertarianism: sex, drugs, the right to use your own body and mind as you desired’ (Green 1999:157). Abrams (1993) remarked that of his many speaking engagements that year, ‘when I spoke at a teach-in organized by the Young Communists League, I faced a hostile audience for the first time. Speaker after speaker rose to say that cannabis was a capitalist plot’.

After a summer break, the Wootton Committee continued its work in the autumn of 1967, meeting in September and November. At its sixth meeting on December 5th, Abrams gave evidence. The full transcript of this session is in the archive and makes for interesting reading. At one point, to illustrate his argument that cannabis did not usually impair capacity to work productively, he observed that ‘I wrote the advertisement in the *Times* when I was under the influence of cannabis’[[32]](#footnote-32). One can almost imagine the raised eyebrows and suppressed smiles around the Committee table!

The need to include input from figures in the counter-culture was clearly recognised. As well as Abrams, representatives from *IT* were invited to participate and gave evidence to the meeting held on January 10th 1968, alongside R.D. Laing[[33]](#footnote-33). There were limits to this inclusiveness, though, and the minutes of that same meeting note[[34]](#footnote-34):

An offer had been received from Mr S Abrams to arrange for the Beatles to give evidence to the Sub-Committee. The matter was considered, but it was agreed that nothing useful was likely to be achieved by interviewing these gentlemen.

Further meetings took place, roughly one a month, during the first half of 1968. By the meeting on June 26th, the group was considering the fourth revision of the draft report, with the final draft completed later in the summer. Publication of the report took some time. According to Abrams, ‘during the summer of 1968 […] attempts were made to repress it, and to discredit the Committee, witnesses and SOMA’[[35]](#footnote-35). This was arguably part of the wider ‘souring’ of the counter-culture in 1968, as societal tensions increased. The student protests, wildcat strikes and clashes with the police that took place in Paris in May and June – *les événements* – were emblematic of a year in which inter-generational conflict and civil unrest erupted across Europe, the United States and elsewhere (Krawatzek 2017). As Green (1999:173) remarks, in many places at this time, cannabis was a ‘badge of the underground’ and an ‘increasingly contentious focus for the rival forces of the Establishment and counter-culture’ (Green 1999:173). Reflecting on his own involvement in *The Times* advertisement some years later[[36]](#footnote-36), George Harrison captured some of this contentiousness:

I’d no reservations about signing this thing. Other than the feeling of the excitement of knowing that you were putting yourself on the line. And that there was always going to be somebody who would come later and knock on your door.

And they did. The knock for Lennon came on October 18th 1968, and for Harrison on March 12th 1969. Both were arrested and charged with cannabis possession following a raid on their homes. Both also claimed the cannabis had been planted, a view given credence by the involvement in the arrests of Norman Pilcher, a Detective in the Metropolitan Police Drug Squad who would later be convicted for corruption, including the planting of drugs (see Mills 2013:135-136). Abrams would cite the impact of sustained police harassment for his own withdrawal from cannabis law reform work, which he had largely given up by 1970[[37]](#footnote-37). Clearly, there was a willingness to use coercive state instruments of power to resist the reform movement.

The agreed final version of the Wootton report was eventually submitted to the Home Office on November 1st 1968 (Mills 2013:149). Jenkins’ successor as Home Secretary, James Callaghan, was apparently reluctant to publish it at all (Oakley 2012:270). Its contents were extensively leaked in advance and there was considerable press discussion of the issue at the tail end of 1968, particularly after Lennon’s drug bust in October and subsequent fine for cannabis possession[[38]](#footnote-38). An article in *The Guardian* on December 2nd 1968 was headlined ‘Legalising pot?’, the question mark indicating the unresolved character of the national debate[[39]](#footnote-39). The tenor of the article, though, was quite clear. Arguing that Wootton’s recommendations were a messy compromise on what was a ‘humanitarian issue as well as one of civil liberties’, it concluded that ‘Mr Callaghan would be well advised to take the issue one stage further by appointing a new inquiry into the practical question of *how* cannabis might eventually be legalised’. It also deprecated the ‘artificial moral lather’ about ‘permissiveness’ that coloured the debate.

The Report was finally published at the beginning of January 1969, 21 months after the Sub-Committee had been set up[[40]](#footnote-40). It made reference to the impetus to its work provided by *The Times* advert and the NCCL report and the ‘wave of debate’ that followed (ACDD 1968:para 2). In a section on ‘Philosophy of Control’, the Report made the near-obligatory reference to J.S. Mill and the question of ‘whether, and if so, how far, it is justifiable for the law to restrict a man’s [sic] freedom in what is presumed to be his own interest’ (ACDD 1968:para 14). The language of ‘individual liberty’, ‘civil liberties’, ‘freedom of choice’ and ‘individual freedom’ was used throughout. Its conclusions and recommendations were in some respects quite modest. It ruled out legalisation ‘in the near future’, whilst noting that not all members wished to rule it out forever (1968:para 72), and called for more research to inform any possible change of that kind in the future. It recommended that cannabis should be treated differently within legislation from drugs like heroin and, overall, that penalties for personal possession should be considerably lessened. We might summarise the report as calling for significant depenalisation of cannabis but with no decriminalisation or legalisation. Within the spectrum of drug law reform, this was arguably not a very radical position.

Not everyone took that view. In the parliamentary debate on the Wootton report, on January 27th 1969, James Callaghan introduced his remarks with an unusually sharp criticism of the Committee:

I think that it came as a surprise, if not a shock, to most people, when that notorious advertisement appeared in *The Times* in 1967, to find that there is a lobby in favour of legalising cannabis. The House should recognise that this lobby exists, and my reading of the Report is that the Wootton Sub-Committee was over-influenced by this lobby.

Wootton was furious. She was reported the next day as describing this remark as ‘an insult’ to her Committee[[41]](#footnote-41). The following week, jointly with Sir Edward Wayne the overall chair of the Advisory Committee on Drug Dependence, she wrote a letter to *The Times* expanding on her displeasure at Callaghan’s remarks, which they termed ‘offensive’[[42]](#footnote-42). Callaghan also took the opportunity of the parliamentary debate to indulge in the ‘moral lather’ that *The Guardian* had cautioned against, describing the legalisation ‘lobby’ as ‘another aspect of the so-called permissive society’ and claimed that his rejection of Wootton had ‘enabled the House to call a halt in the advancing tide of so-called permissiveness’. Much of the debate was of poor quality and, as Mills (2013:151) remarks, ‘was not about the report at all’ but rather more generalised attacks on ‘the idea of the counter-culture for which cannabis was being taken as a symbol’.

By the end of 1969, the cultural and political energy that had animated the cannabis debate had largely drained away, particularly in the UK. Abrams was disappearing from public view and the counter-culture itself was in decline, as this period of ‘unprecedented intensity’ in the social, cultural and political sphere began to slow down (Green 1999:xiii). By the time Callaghan eventually introduced new legislation in early 1970 – the Misuse of Drugs Bill – he had been outvoted by his cabinet colleagues and the Bill contained many of the proposals that he had previously rejected, notably the separation of offences and penalties relating to cannabis from those concerning other more ‘dangerous’ drugs. As Oakley (2012:276) observes, this led some in the parliamentary debate to declare that Wootton had been vindicated. The Labour government lost the election in June, before the Bill became law, but the incoming Conservative administration enacted it largely unchanged and the Misuse of Drugs Act 1971 remains in force nearly 50 years later.

*Discussion*

The long-term legacy of cannabis law reform activism in the 1960s and of the Wootton report is a difficult question to answer definitively (see Oakley 2012). Was it a dead-end or a formative moment? Despite its obvious lasting legislative impact through the 1971 Act, it is notable that the Wootton report has today largely been forgotten. Indeed, when Barbara Wootton died in 1988, it was not even mentioned in most of her obituaries. And in the UK at least, cannabis remains prohibited over 50 years later. But arguably what happened in the late 1960s lit a fire that has continued to burn ever since. In Canada, for example, the Le Dain Commission (1969-1972) – which cited Wootton and to which John Lennon and Yoko Ono gave evidence at a private hearing in Montreal on December 22nd 1969[[43]](#footnote-43) – produced a radical report which recommended decriminalisation of cannabis for personal use (Le Dain Commission 1972). Although this was ignored at the time, historian Marcel Martel (2006) argues that it fundamentally changed the national conversation about cannabis law reform and, of course, in 2018 cannabis was legalised in Canada for both medical and recreational use. Similarly, in the United States the Shafer Commission’s (1970-1972) report was dismissed by President Nixon but became a touchstone for the cannabis law reform movement over the following decades (National Commission on Marihuana 1972). Lennon had a brief involvement in the US reform movement in the early 1970s, primarily through his public support for the poet John Sinclair who was sentenced to 10 years in prison in 1969 for offering two cannabis joints to an undercover narcotics officer[[44]](#footnote-44). Sinclair has remained a reform activist and in November 2018 state legislation was passed to legalise recreational use of cannabis in his home state of Michigan.

There is a case, then, that the seemingly distant events of the 1960s described in this paper have had a lasting impact. Part of the reason for this may be that they were connected with wider shifts in society. The emergence of consumer capitalism has been identified as one of the defining characteristics of post-1945 affluent Western societies (see: Bauman 2007; Smart 2010) and it is impossible to read Jonathan Green’s (1999) magisterial history of the 1960s counter-culture without seeing the centrality of consumption – of music, of fashion, and, of course, of drugs. He describes 1967, in particular, as the year of ‘dope’, specifically of cannabis and LSD (Green 1999:173). In his classic 1971 book *The Drugtakers*, based on ethnographic research conducted in West London between 1967 and 1969, Jock Young identified the close inter-relationship between the new emphasis on leisure within mainstream culture and the valorisation of hedonism within the bohemian drug subculture. He argued that in this sense they were two sides of the same coin. Writing just a few years later, Dorn (1975:60) explicitly made the connection between increasing levels of recreational drug use and the rise of the consumer society. As we have seen, the counter-cultural discourse of cannabis law reform was built squarely on this consumerist terrain of freedom to choose by ‘autonomous individuals seeking to fulfil themselves and gain personal happiness’ (Rose 1999:86). This new ethic of individual freedom spanned across the moral, sexual and personal realms (Rose 1999:61-2) and underpinned the various strands of the emerging ‘permissive society’ in the late 1960s – relating to homosexuality, abortion, divorce and so on – which all centred on turning behaviour that had previously been a question of public morality into private matters for free individuals (see Robinson et al 2017:273).

As several commentators have observed (e.g. Bauman 1988; Rose 1999), the notion of consumer freedom actually came to its greatest prominence a little later in the ‘revolutions in government in the 1980s commonly termed ‘neoliberalism’’ (Rose 2017:304). This leads to a critical insight. Whilst this more individualistic capitalism became most visible in the 1980s, its roots are to be found in the left libertarianism of the late 1960s, as sociologists Boltanski and Chiapello (2005) argue in their landmark book *The New Spirit of Capitalism* (originally published in French in 1999). Putting this in provocative terms, we might say that thinking historically shows us that cannabis law reform is, at least in part, a neoliberal project, taking off at the moment of transition as welfarist politics began to unravel and turn into something new. This is now shaping key aspects of the contemporary experience of liberalising cannabis markets, as the commercial dynamic is proving to be a powerful force. It has been estimated that globally the legal cannabis market could be worth as much as US$ 166 billion by 2025 (Milenkovic 2018).

In the counter-culture, closely linked to the notion of personal freedom was the idea of liberation which took concrete shape in the discourse of individual rights. As we have seen, the framing of cannabis law reform as a civil liberties project was a core part of the story of the late 1960s. It was not coincidental that NCCL should have been the NGO that chose to undertake an inquiry into the drug question at this time, nor that Release, the drugs and human rights NGO, should have been founded in the summer of 1967. The language of civil liberties was pervasive within reform discourse, including in the advert in *The Times* which described the policing of cannabis laws as a ‘threat to civil liberties’. On the other side of the Atlantic, similar arguments were framed in the language of civil or constitutional rights (e.g. Dichter 1968) and the 1972 Shafer Commission report included a section in its Appendices on the ‘constitutional dimensions of marihuana control’. The idea of cannabis laws, and their enforcement in particular, as a threat to citizens’ rights has remained a key concern for the reform movement. One of the most interesting developments in the last few years in a number of countries – South Africa, Mexico and Georgia so far – has been the use of NGO-led strategic litigation to challenge the constitutionality of laws prohibiting cultivation and possession of cannabis for personal use in private, on the grounds of breach of protected constitutional rights to personal autonomy (see A. Marks 2019:218-221).

Just as the centrality of personal freedom in the 1960s cannabis story can be located in the context of the emerging individualism of a transforming ‘spirit of capitalism’, so can the related individualistic emphasis on liberation and citizen rights. In the spreading wake of Samuel Moyn’s (2010) revisionist history of human rights, *The Last Utopia*, the question of the ‘historical and conceptual relations between human rights and neoliberalism’ (Whyte 2019:4) has become the focus of a vibrant and important debate amongst legal scholars, political scientists, historians and philosophers (e.g. S. Marks 2019; Whyte 2019). Jessica Whyte (2019) explores the parallel post-war histories of human rights and neoliberal capitalism, tracing the genealogy of how the rise of human rights led to its mobilisation as the moral language of the competitive market. When contemporary commentators wryly observe that the cannabis law reform agenda is now being driven by an unlikely alliance between commercial business interests and human rights advocates, they are describing what are actually deeply connected phenomena within the genealogy of neoliberalism.

In making these connections, the purpose is not to engage the explanatory trope often favoured by social scientists of seeing the particular (cannabis law reform) as a local instance of the general (the rise of neoliberal consumer capitalism), even though that type of argument undoubtedly has a powerful appeal (see Garland 1995:60). Rather, the aim is to try to understand how the cannabis story is *woven together* with that bigger story and is therefore part of it, in order to think historically about the contemporary state of cannabis law reform. By linking the past with the present in this way, as Yeomans (2019) argues, we can fruitfully expand our criminological imagination as we grapple with today’s challenges. It is to this task that we now turn in conclusion.

*Conclusion*

At the ninth meeting of the Wootton Committee held on March 22nd 1968, members discussed written statements they had prepared on future cannabis legislation. In her own note, Wootton reflected ‘I should not be surprised’ if cannabis were legalised in 50 years’ time[[45]](#footnote-45). She proved partly right. By 2018, cannabis was legalised for recreational use in Uruguay and in several states in the U.S., with Canada soon to follow. She would surely have been surprised, though, by the lack of change in the UK. David Downes, who was a member of the NCCL Advisory Committee on Drugs in 1967, recently reflected that ‘what's remarkable about that period is our optimism that it would only be a short time before cannabis was decriminalised, if not legalised [….] That things would have changed so little over fifty years on would have been pretty unthinkable’[[46]](#footnote-46). This is an important lesson: there have been previous moments when prohibitive cannabis laws appeared to be on the verge of disappearing, only to prove more durable. Current developments in the Americas may feel unprecedented in the history of cannabis prohibition, and perhaps they will prove to be so, but we should also be wary of the dangers of ‘epochalism’ (Savage 2009). Churchill (2019:483-486) argues that the project of historical criminology needs to be built upon an understanding of crime control as a complex pluralized field in which change should be characterised in terms of ‘multiple flows of historical time’ rather than epochal shifts from one ‘master pattern’ to another. We have seen, for example, that the individualised capitalism usually understood as neoliberalism born in the 1980s, in fact has earlier and surprising roots in the 1960s. It might be added that it is highly variegated regionally as well.

How might thinking historically about cannabis law reform shine a new light on some of the substantive policy issues? Here, one specific problem is considered: how to control the influence of corporate power and commercial interests in creating new legal cannabis markets[[47]](#footnote-47). This is in many ways the most pressing question today. Can we avoid the mistakes we have made with the regulation of alcohol and tobacco? One of the key insights from the historical analysis in this paper is that the 1960s flowering of cannabis law reform can be understood as linked to wider transformations in liberal governance that were starting to stir at that time and that we can now see as a nascent neoliberalism or, as some prefer, regulatory capitalism (see Braithwaite 2008:1-29). This tells us that the challenge of cannabis regulation is in fact a specific instance of the broader problem of how to regulate vibrant, globalised twenty-first century capitalism. At the heart of the matter is finding the optimal balance between state and business, a balance that Braithwaite (2013) argues should be considered *strategically*. He observes as an example that the post-war era of nationalised coal industries in many European countries was transformative for mine safety but that these gains were not lost when (re-)privatisation happened. In this sense, ‘strategic socialism was a kind of circuit-breaker on the road to a less destructive capitalism’ (2013:39). The lesson for the cannabis industry may be that instead of taking the large step of moving from prohibition straight to a fully commercial market, a more measured approach might be to begin with a state-controlled supply system – coupled with home cultivation and local growing co-operatives – as a strategic ‘circuit-breaker’ in order to establish some social norms for legal cannabis. Privatisation of supply could then be considered in the future as a way of driving industry efficiency and innovation (Seddon and Floodgate 2020).

The unfolding picture in the Americas and elsewhere is providing us with a set of natural experiments for these different approaches, and we will need rigorous empirical testing to refine policy incrementally. The fundamental challenge for regulators is to constitute cannabis markets that protect human rights, enhance social and racial justice, and facilitate human flourishing. In an era of regulatory capitalism, it is perhaps a more difficult task than it has ever been. By thinking historically, we can broaden our criminological and regulatory imagination, learning from the past to shape the future of cannabis control.

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1. The main archival sources were: material on the Wootton Committee at the National Archives; the personal papers of Steve Abrams held at the Wellcome Collection; archive of the National Council for Civil Liberties (NCCL) at the Hull History Centre; papers of the Oxford University Committee on Student Health at the Weston Library; back issues of *The Times*, *The Sunday Times*, *The Guardian*, *The Daily Telegraph* and *The Daily Mail*; parliamentary proceedings; online archive of *International Times*. [↑](#footnote-ref-1)
2. In an interview for French television in 1975, John Lennon described just such an early pre-fame encounter with cannabis: ‘People were smoking marijuana in Liverpool when we were still kids […] All these black guys were from Jamaica, or their parents were, and there was a lot of marijuana around. The beatnik thing had just happened. Some guy was showing us pot in Liverpool in 1960 […] And we smoked it and we didn’t know what it was.’ (quoted in Goodden 2017:43; see also Lewisohn 2013:339). [↑](#footnote-ref-2)
3. Undated note on SOMA, personal papers of Stephen Abrams (hereafter Abrams), PP/SAB/B/1/1/4. [↑](#footnote-ref-3)
4. ‘Make it legal to take marijuana, urges Oxford student’, *Daily Mail*, February 1st 1967, page 5. [↑](#footnote-ref-4)
5. ‘Oxford man defends hemp claims’, *Daily Telegraph*, February 3rd 1967, page 17. [↑](#footnote-ref-5)
6. ‘Drugs in Oxford: Non-Addictive and “Harmless” Herbs’, Letter to the Editor, *Daily Telegraph*, February 4th, 1967, page 10. [↑](#footnote-ref-6)
7. Letter from Abrams to Committee secretary confirming attendance, February 16th 1967, papers of the Committee on Student Health (hereafter Student Health), HC 17/6 File 2. [↑](#footnote-ref-7)
8. The name was derived from *Cannabis indica*, one of the two main species of cannabis plants. [↑](#footnote-ref-8)
9. Various letters in January and February 1967, Hull History Centre NCCL/Liberty archives (hereafter NCCL), U DCL/101/1. [↑](#footnote-ref-9)
10. Confidential letter from Alan Bullock to K.C. Turpin, February 28th 1967, Student Health, HC 17/1. [↑](#footnote-ref-10)
11. Vice-Chancellor memo, March 11th 1967, Student Health, UR 6/MD/23/5 File 1. [↑](#footnote-ref-11)
12. Minutes of ACD meeting February 28th 1967, NCCL U DCL/262/2. [↑](#footnote-ref-12)
13. Minutes of ACD meeting April 4th, NCCL U DCL/262/2. [↑](#footnote-ref-13)
14. Minutes of ACD meeting July 18th, NCCL U DCL/262/2. [↑](#footnote-ref-14)
15. It has been assumed in the literature (e.g. Oakley 2012:269), and Abrams often claimed, that the Wootton Committee was set up as a direct consequence of the Oxford Vice-Chancellor’s letter to Roy Jenkins in March. It is clear from the archival material that plans for the Wootton Committee were in fact already in train, although the Home Office indicated that a letter from the Vice-Chancellor would ‘strengthen the Committee’s hand’: Hebdomadal Council note, March 13th 1967, Student Health UR 6/MD/23/5 File 1. [↑](#footnote-ref-15)
16. This was agreed at the meeting on April 26th 1968. Minutes of Wootton Sub-Committee meeting, National Archives (hereafter NA), MH 148/409. [↑](#footnote-ref-16)
17. NA HO/319/371. [↑](#footnote-ref-17)
18. Abrams PP/SAB/B/2/4/1. [↑](#footnote-ref-18)
19. Unpublished note, Abrams PP/SAB/B/2/4/1. [↑](#footnote-ref-19)
20. Minutes of the meeting June 8th 1967, NA HO 319/371. [↑](#footnote-ref-20)
21. For example: ‘The Stones: A case of social revenge’, *The Sunday Times*, July 2nd 1967, page 10; ‘Drugs dilemma’, *The Sunday Telegraph*, July 2nd 1967, page 12. [↑](#footnote-ref-21)
22. NCCL U DCL/852/6. [↑](#footnote-ref-22)
23. ‘Savage sentences may backfire’, *The Sunday Times*, July 9th 1967, page 8. [↑](#footnote-ref-23)
24. ‘Top Pot’, *The Sunday Times*, July 9th 1967, page 9. [↑](#footnote-ref-24)
25. <https://www.beatbooks.com/pages/books/37158/legalise-pot-rally-an-original-handbill-for-the-legalise-pot-rally-held-in-hyde-park-on-july-16th/?soldItem=true> <Last accessed March 21st 2019>. [↑](#footnote-ref-25)
26. E.g. ‘Drugs call by ‘flower children’’, *The Times*, July 17th 1967, page 2. [↑](#footnote-ref-26)
27. Abrams PP/SAB/B/1/2/1. [↑](#footnote-ref-27)
28. This indicated that his signature was a personal rather than professional or ‘Beatle’ commitment. I am grateful to Mark Lewisohn for making this point to me. [↑](#footnote-ref-28)
29. Channon would later become a Cabinet Minister in the 1980s in Margaret Thatcher’s government. His own daughter died of a heroin overdose in 1986 whilst a student at Oxford. [↑](#footnote-ref-29)
30. Letter from Jane Firbank Abrams to Paul Channon MP, Abrams PP/SAB/B/1/1/7. [↑](#footnote-ref-30)
31. The letter from a ‘John Downie’ in the February 27th edition is a good example of the thread. [↑](#footnote-ref-31)
32. NA MH 148/409. [↑](#footnote-ref-32)
33. NA HO 319/372. [↑](#footnote-ref-33)
34. NA MH 148/409. [↑](#footnote-ref-34)
35. Undated note, Abrams PP/SAB/B/2/4/1. [↑](#footnote-ref-35)
36. Interview in the Granada Television programme ‘It Was Twenty Years Ago Today’, 1987. [↑](#footnote-ref-36)
37. Abrams PP/SAB/B/1/1/4. [↑](#footnote-ref-37)
38. The report of Lennon’s sentence appeared, for example, on the front page of the *Evening News* (then London’s biggest evening newspaper) on November 28th. [↑](#footnote-ref-38)
39. ‘Legalising pot?’, *The Guardian*, December 2nd 1968, page 8. [↑](#footnote-ref-39)
40. The Report was dated 1968, indicating the delays there had been in putting it into the public domain. [↑](#footnote-ref-40)
41. ‘Drug remarks ‘insult’, Lady Wootton says’, *The Times*, January 28th 1969. [↑](#footnote-ref-41)
42. ‘Drugs Report: Answer to Minister’, Letter to the Editor, *The Times*, February 5th 1969. [↑](#footnote-ref-42)
43. <http://beatles.ncf.ca/ocrledain.html> <Last accessed May 7th 2019>. [↑](#footnote-ref-43)
44. Footage of Lennon playing at the John Sinclair Freedom Rally in Ann Arbor in December 1971 appears in the 2006 documentary film ‘The U.S. vs John Lennon’. [↑](#footnote-ref-44)
45. Papers for the meeting on March 22nd 1968, NA HO 319/372. [↑](#footnote-ref-45)
46. Personal communication, February 7th 2019. [↑](#footnote-ref-46)
47. Gornall (2020) describes the large UK network of individuals and organisations lobbying for a legal cannabis industry. [↑](#footnote-ref-47)