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Prohibition, Legalization, and Political Consumerism: Insights from the US and Canadian Cannabis Markets

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Abstract and Keywords

Cannabis (marijuana) is the most commonly consumed, universally produced, and frequently trafficked psychoactive substance prohibited under international drug control laws. Yet, several countries have recently moved toward legalization. In these places, the legal status of cannabis is complex, especially because illegal markets persist. This chapter explores the ways in which a sector's legal status interacts with political consumerism. The analysis draws on a case study of political consumerism in the US and Canadian cannabis markets over the past two decades as both countries moved toward legalization. It finds that the goals, tactics, and leadership of political consumerism activities changed as the sector's legal status shifted. Thus prohibition, semilegalization, and new legality may present special challenges to political consumerism, such as silencing producers, confusing consumers, deterring social movements, and discouraging discourse about ethical issues. The chapter concludes that political consumerism and legal status may have deep import for one another.

Keywords: cannabis, marijuana, fair trade, organic, sustainability certifications, environmental movements

Cannabis is both globally ubiquitous and illegal under international law. People in almost every country grow it (UNODC, 2016, pp. 21–22), at least 2 percent of the world's population consumes it (WHO, 2016, p. 1), and it is more commonly trafficked and seized than any other psychoactive substance in the world (UNODC, 2016, pp. 21–22). Although cannabis is prohibited under international law, several states and subnational regions have legalized cultivation and/or consumption or relaxed enforcement of prohibitory laws. In those places, the legal status of cannabis has become complicated, especially because illegal activities persist. This chapter examines political consumerism in the context of newly legalized markets.

The objective of this chapter is to describe and explain the interplay between legality and political consumerism. The empirical analysis draws insights from a case study of cannabis in Canada and the United States. It argues that political consumerism can affect legal status and that legal status, in turn, can affect political consumerism. In the case of cannabis, political consumerism helped facilitate legalization by challenging stereotypes and social norms. Legalization coincided with three changes in political consumerism. First, the goal of political consumerism shifted from normalizing cannabis consumption to creating a specialty market. Second, the approach to political consumerism shifted away from alternative lifestyles and toward ethical purchasing. Third, leadership shifted away from the demand side (cannabis consumers) and was taken on by actors on the supply side (producers, processors, and retailers). Analysis of this case shows how changes in legal status may not only create special challenges for political consumerism but also generate consequences for consumers, producers, social justice outcomes, democracy, and the environment.

The chapter introduces the concepts of legal status, political consumerism, and cannabis. It also provides background information about the political economy of cannabis, the US and Canadian markets, and challenges facing social science researchers in this field. The case study shows how legal status and political consumerism interact. It first examines political consumerism's goals, approaches, and leadership from the late 1990s to early 2010, when Canada and several US states legalized cannabis for medicinal—but not recreational—consumption. It then examines political consumerism from the mid-2010s to the present, when Canada and several US states legalized recreational cannabis. The discussion describes how political consumerism can interact with legalization advocacy, examines how legal status can create challenges for engaging in political consumerism, identifies the consequences of legal status on the outcomes of political consumerism, and highlights the ways in which these consequences challenge and support democratic politics.

As described in the volume's introductory chapter, the term "political consumerism" refers to the application of political values and actions to a market context (see also Stolle & Micheletti, 2015). Those who engage in political consumerism draw on their attitudes and values to identify, critique, and challenge objectionable practices. Actors may work collectively or act independently. Political consumerism takes place at the individual, group, organizational, institutional, system, network, or social movement levels of analysis (Micheletti, 2003, p. 2). However, individual actions are intended to contribute to systemwide change, effective when executed in concert with others (Schor, 2010, p. 3). For this reason, political consumerism is sometimes theorized as "collectivized individual action" (Bossy, 2014). Political consumerism takes many forms, including ethical purchasing, such as boycotts, buycotts, and product certifications (Harrison, Newholm, & Shaw, 2005); alternative lifestyles such as vegetarianism, voluntary simplicity (see Haenfler, Johnson, & Jones, 2012); and culture jamming, such as ad busting and guerilla billboard takeovers (Lekakis, 2017). This chapter shows how alternative lifestyles helped

to usher in legalization and describes the development of ethical purchasing initiatives in newly legalized markets.

This chapter examines political consumerism in the context of cannabis. It uses the term “cannabis”—as opposed to the common vernacular of “pot,” “dope,” “ganja,” “weed,” or “marijuana”—because *Cannabis* is the plant’s genus and the term used in international treaties. In Canadian and US public policy, “cannabis” and “marijuana” are used interchangeably to refer to the substance produced and consumed for medicinal or psychoactive purposes. However, some eschew the term (e.g., Thompson, 2013; Wilder, 2016) because US policymakers and law enforcement officials popularized the term in a racist and xenophobic scapegoating campaign in the 1930s (Hudak, 2016, pp. 24–26). “Medicinal cannabis” refers to the consumption of cannabis for healing or palliative purposes, while “recreational cannabis” refers to the consumption of cannabis for other purposes. “Hemp” is a cannabis varietal grown for its fibrous properties and industrial applications, as opposed to medicinal or psychoactive effects, and it is not the focus of this chapter (see Ely, 2012).

This chapter examines the relationship between political consumerism and legal status. To be clear, “legality” is a sociopolitical construct that is used to legitimize some activities and criminalize others (Gomberg-Muñoz, 2011; Thomas & Galemba, 2013). Here, the terms “legal” and “illegal” refer to a sector’s standing with regard to state law.[1] In the case of cannabis, legality is not always straightforward, as described in the following section. The term “semilegal” is used to refer to sectors in which supply, demand, and exchange mechanisms take place both legally and underground, with some actors operating in both markets at the same time (e.g., Caulkins et al., 2012; Eagland, 2016). Legality is distinct from “licitness,” which refers to social acceptance and norms (Abraham and Van Schendel, 2005, p. 18). Thus, in some contexts, cannabis may be at once illegal (i.e., prohibited by the state) and licit (i.e., socially accepted) (Polson, 2013). This chapter examines political consumerism in the cannabis sector during its transition toward legality in the United States and Canada.

Politics, Ethics, Consumers, and Cannabis

The Global Cannabis Market

The international political economy of cannabis is complex and changing. On a global scale, cannabis is, by far, the most widely consumed psychoactive substance that is illegal under international law (WHO, 2016, p. 1). An estimated 183 million people have consumed cannabis (in 2014; UNODC, 2016, p. 1)—five times more than the population consuming opiates or opioids (UNODC, 2016, p. 1). Since 1998, the proportion of the global population consuming cannabis has remained steady (UNODC, 2016, p. 44). Unlike most drugs, which are produced in small pockets, cannabis (a leafy green plant) is grown in 129 countries (UNODC, 2016, p. 21). To compare, only 49 countries produce opium poppy and seven grow coca (UNODC, 2016, p. 21). Cannabis is also the most commonly trafficked drug. Although more than 200 substances are under international control, over half of the 2.2 million drug seizures that occurred in 2014 were confiscations of cannabis (UNODC, 2016, p. 22). These seizures occurred globally in 95 percent of reporting countries (UNODC, 2016, p. 22). In short, “cannabis continues to be the most widely cultivated, produced, trafficked and consumed drug worldwide” (UNODC, 2016, p. 43).

Despite its ubiquity, cannabis remains an internationally controlled substance. Three treaties serve as the basis for global cooperation: the 1961 Single Convention on Narcotic Drugs; the 1971 Convention on Psychotropic Substances; and the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The 1961 Convention, which has been ratified by all but eleven countries, mandates that states restrict the cannabis industry to medical and scientific purposes; enact specific protocols for medicinal cannabis, such as limiting production to the amount necessary to meet domestic demand; and adopt domestic laws that criminalize participation in the controlled substances market outside of these purposes (UN, 1961, see articles 3, 4, 23, 28). The International Narcotics Control Board, an independent quasi-judicial body, monitors the implementation of these conventions and encourages compliance (INCB, 2017).

Over the last five years (2012–2017), several countries and subnational regions have increased access to cannabis for medicinal purposes, decriminalized market activities, and/or legalized recreational consumption. The Czech Republic, Mexico, and Costa Rica, for example, have decided not to punish personal possession of small amounts of cannabis (see Malkin & Ahmed, 2015 on Mexico, for example). Canada, Uruguay, and some US states have gone further, permitting cultivation, sales, and consumption of cannabis for recreational purposes (see, e.g., Cerda & Kilmer, 2017, pp. 45–47 on Uruguay). While these countries do not constitute a majority, they suggest a potential trend toward greater acceptance of cannabis for both medical and recreational purposes. As one magazine quipped, there are many places where cannabis is “legal-ish” (Glass & Robinson, 2015).

Cannabis Legalization in the United States and Canada

Like most countries, the United States and Canada are signatories to the three principal treaties on international drug control (UN, n.d.). They are also at the heart of the global cannabis industry: most cannabis is produced in North America, much of it is consumed there, and consumption levels are increasing.

In the United States, cannabis is illegal at the federal level, and those who engage in the industry can be prosecuted (DEA, 2017). However, individual states have been using voter referenda to legalize medicinal cannabis since 1996 (California) and to legalize recreational cannabis since 2012 (Colorado). Today, twenty-eight states have legalized medicinal cannabis and nine states have legalized recreational cannabis, though not all have created the regulatory frameworks and completed the processes required to make products legally available. As of mid-2017, recreational cannabis can be bought and sold in three states—Colorado, Washington, and Oregon (Lyons, 2017). In 2013, the US Department of Justice responded to this wave of legalization, announcing it would defer marijuana regulation to state legislatures, whilst retaining the right to review and challenge state laws (NCSL, 2017).

Although US cannabis regulations differ among states and between the medicinal and recreational markets, there are several common features. Growers must apply for a license from the state and abide by cultivation regulations such as quantity of plants, pesticide use, security, transportation, and wastewater management (OLCC, 2017). Dispensary owners must also apply for a license from the state and abide by regulations such as age restrictions, quantity maximums, and purchasing only from licensed growers. In all legalized states, the illegal market persists, with growers, distributors, and consumers often moving between legal and illegal markets (Kleiman et al., 2015).

According to several polls conducted in 2016 and 2017, about 60 percent of Americans support full legalization (for adult recreational and medicinal consumption) (CBS News, 2017; Gallup, 2016; Quinnipiac University, 2017) and 56 percent think that marijuana consumption is socially acceptable (Marist, 2017). Similarly, children increasingly report that they do not disapprove of adults who try cannabis (Miech et al., 2017). About 52 percent of Americans have consumed cannabis, 22 percent currently consume cannabis (Yahoo/Marist, 2017), and 2.3 million people (less than 1 percent of the population) are registered medical users (MMPP, 2017). Disordered cannabis consumption (abuse or dependence) affects about 1.6 percent of Americans over twelve years of age, or 1.3% of the total population (ADAI, 2017; NIDA, 2015; SAMHSA, 2015). This is about four times less prevalent than disordered alcohol consumption, which affects about 6.4% of Americans twelve years and older (SAMHSA, 2015). In the United States, “marijuana has gone mainstream” (Hudak, 2016, pp. 1, 116). (See Table 1.)

Table 1 **Cannabis consumption and public opinion in the United States and Canada**

	Self-reported survey data	United States	Canada
Consumption	Consumed cannabis at least once over course of lifetime	52%	24%
	Currently consume cannabis (purpose unspecified)	22%	13%
	Registered for medical consumption	<1%	<0.5%
	Consumption habits considered disordered	1.6%	1.3%
Opinion	Support full legalization (for medicinal and recreational consumption)	60%	50–60%
	Believe consuming cannabis is socially accepted	56%	–
	Personally believe cannabis is morally acceptable	–	65%

Sources cited within the text.

(*) Official statistic, not self-reported

In Canada, medicinal cannabis has been federally legal since 1999 (Bear, 2017). Patients were allowed to grow a small number of plants at home or designate someone to grow on their behalf, creating an industry composed of small cannabis farms. In 2014, however, Health Canada shifted policies to support a medical marijuana supply chain that more closely resembled synthetic pharmaceuticals. It began issuing licenses for large “commercial operations” and made home-grows illegal. As a result, cannabis production quickly became dominated by a small number of large-scale commercial producers able to finance compliance with costly regulations. By the end of 2016, a series of acquisitions and mergers established Canada’s “big pot” industry (Davis, 2017), and the combined market value of Canada’s six largest marijuana companies reached nearly CAD$4 billion (Casey & Skerritt, 2016). As of June 7, 2017, there were forty-five licensed producers, with about half (twenty-six) in Ontario, ten in British Columbia, and the remaining nine divided among New Brunswick, Prince Edward Island, Quebec, Manitoba, Saskatchewan, and Alberta (Health Canada, 2017).

In 2015, Canadians elected a new prime minister whose platform included legalizing recreational cannabis (Hajizadeh, 2016). In April 2017, the minister of justice and attorney general introduced their proposed Cannabis Act to the House of Commons. The act lays the groundwork for creating a regulatory framework for legal cannabis. If approved by Parliament, the act is intended to come into force no later than July 2018 (Canadian Parliament, 2017). This would make Canada the second country, after Uruguay, to legalize cannabis for all purposes. (Note that, despite Amsterdam's famed cannabis "coffee shops," cannabis production has always been illegal in all parts of the Netherlands (USLLC, 2016, pp. 9, 19). In the months preceding the announcement, about 50 to 60 percent of Canadians surveyed expressed support for full legalization, with about half of those expressing "strong" support (NRG, 2017a; IPOS, 2017). A greater number (65 percent) personally believe that consuming cannabis for recreational purposes is morally acceptable (Anderson & Coletto, 2016). About 24 percent of Canadians have consumed cannabis (IPSOS, 2017), 13 percent currently consume cannabis (NRG, 2017b), and 130,000 (less than half of one percent of the population) are registered medical consumers (Health Canada, 2016). In Canada, the rates of disordered cannabis and alcohol consumption are both slightly lower than in the United States: about 1.3 percent of the population fifteen years and older meet criteria for disordered cannabis consumption and about 5.5 percent for disordered consumption of alcohol (Statistics Canada, 2012).

In 2016, the combined Canadian and US cannabis markets were estimated to be worth about USD$56 billion. About 12 percent of that market, or USD$6.7 billion, is in legal sales, with 1.8 billion coming from the recreational market and 4.9 billion from the medical market. Of legal sales, about 87 percent occurred in the United States and 13 percent in Canada, about USD$18 per capita in the United States and USD$24 per capita in Canada. Legal sales are expected to triple over four years, from USD$6.7 billion in 2016 to USD$18 billion by 2020 (Arcview, 2016).[2]

Cannabis, Fair Labor, Consumer Health, and the Environment

This section examines how labor and environmental issues typical to other agricultural products have manifested in the cannabis sector. Three environmental issues of particular concern are energy, water, and agricultural inputs. Cannabis uses energy to heat/cool air, dehumidify, ventilate, pump water, and warm irrigation water (Mills, 2012, 59). Indoor production depends on grow lights and is thus more energy-intensive than greenhouses or outdoor farms. Energy sources vary by farm and region. In Canada, where all commercial-scale cannabis is grown indoors, some provinces are almost entirely powered by hydroelectric dams while others draw on fossil fuels (Wilt, 2017). Illegal growers sometimes burn fossil fuels to produce energy off the grid in an effort to evade detection (Gurnon, 2005; Mills, 2012, p. 59). Some growers generate additional CO_2 emissions by pumping CO_2 into grow houses (Mills, 2012, p. 59) or improperly disposing of bulbs containing neurotoxins (O'Hare, Sanchez, & Alstone, 2013, 18).

Cannabis cultivation is relatively water-intensive. Some estimates suggest each plant requires six gallons (23 liters) each day, which is similar to almond production (CEBPTF, 2016; Ingraham, 2015; Philpott, 2014). While best practices include collecting water during the rainy season and storing it in permitted tanks or ponds, some farmers draw water from streams during the dry season, adding stress to the ecosystem and its wildlife (Bauer et al., 2015). Improper wastewater disposal can contribute to polluted watersheds (Carah et al., 2015). Outdoor production can also leach herbicides, pesticides, fungicides, and fertilizers into water and soil, adding toxins to the food chain (O'Hare, Sanchez, & Alstone, 2013, p. 10). Farmers at times use prohibited chemicals or unlawful volumes of legal inputs (Thompson et al., 2014, p. 92) that can be harmful not only to the environment but also to workers and consumers. Illegal growers have cleared land, built terraces, diverted streams, and constructed roads, which can result in deforestation or erosion, at times on public land (Bauer et al., 2015; Carah et al., 2015).

In both the United States and Canada, cannabis production has historically been more common on the West (Pacific) Coast than other regions, attracting seasonal migrant workers—most from within the United States or Canada—for the summer and fall harvest months (Caulkins et al., 2012, p. 33; Krissman, 2016, note 2; Walter, 2016). During prohibition many workers were drawn not only by cannabis culture but also by the potential of high, untaxed wages for low-skilled work (Krissman, 2016; Walter, 2016).[3] Many cannabis workers have had profitable and safe experiences, but some have not. Like workers in other semilegal economies, cannabis farm workers are at heightened risk of abuse because victims are reticent to report perpetrators, for fear that they (the victims) will face consequences for involvement with illegal activities. Cannabis farm workers have reported wage theft, sexual harassment and assault, discrimination, unsafe housing, and threats and acts of violence for the purpose of improving productivity and silencing dissent (August, 2013; Krissman, 2016; Schirmann, 2016; Walter, 2016). The ubiquity of abuse is unclear, as cannabis market data are unreliable (as discussed in the following section). Some farm workers aim to work exclusively in the legal sector, but this may be difficult as farm owners adapt their plans in response to crop yield, permitting costs, or success with lab testing.

Even if all cannabis were produced legally, it is unlikely that workers would be protected from exploitation or abuse. Scholarship on labor organizing, occupational safety, and income equality all show that US and Canadian legal protections have not protected farm workers from pervasive and profound abuse (FJ, 2015; USDOJ, 2015). In the United States, farm workers are exempt from the National Labor Relations Act (1935) and have the highest rates of toxic chemical injuries and skin disorders of any working group. Estimates suggest that each year about one of every hundred agricultural workers (around 20,000 people) experiences acute pesticide poisoning (PAN, 2010, p. 78). Additionally, worker housing is inadequate and unsafe, field sanitation is poor, and workers and their families often suffer nutritional deficiencies (PAN, 2016, p. 79). In Canada, some provinces exclude farm workers from labor rights legislation, such as laws protecting collective bargaining rights and union certification, and—although farm work is one of the country's most dangerous occupations—many workers lack access to health

care (Otero & Preibisch, 2015). For migrant workers employed through Canada's Temporary Foreign Worker Program, complaints about occupational hazards have been met with threats of deportation, termination of employment, and abuse (Otero & Preibisch, 2015).

Pesticide misuse and overuse has drawn a great deal of attention because of the risks to workers, consumers,[4] and the environment (see Subritzky, Pettigrew, & Lenton, 2017; Voelker & Holmes, 2015). Although Canada and legalized states have banned specific pesticides, enforcement is weak. Oregon is the only state that mandates testing for all products. In Canada, products are randomly spot-checked, unless a grower has a history of using banned substances (Robertson, 2017). Unsurprisingly, contaminated products are sold on the legal market. Some have high residue levels of legal pesticides, while others have been treated with chemicals unfit for consumption (Crombie, 2015a, 2016; Robertson, 2017).

Cannabis and Social Science Research

There are several challenges to conducting social science research on political consumerism in cannabis and other semilegal sectors. First, US researchers report experiencing slowed processes or decreased chances of receiving funding for cannabis-related research (Hesse, 2017). Universities may discourage researchers from applying for federal funding for cannabis research in the first place, fearing that doing so could jeopardize the institution's federal funding.[5] The US government has made explicit, through the Drug Free Schools and Communities Act,[6] that all institutions of higher education must prohibit cannabis from campus, or risk losing federal funding, including student financial aid and research grants (Eisenstein, 2015). Canadian researchers have had more support, as long as studies focus on research on policymaking and public health.[7] Since 2016, the government has encouraged cannabis studies that have the potential to inform public policy (TFCLR, 2016). Second, Institutional Review Boards (in the United States) and Research Ethics Boards (in Canada), which are charged with protecting research subjects, can present additional challenges. At best, they may require rigorous protocols for working with individuals who may be at special risk because of noncompliance with cannabis law. At worst, they may discourage researchers from inquiring about engagement with illegal supply chains.[8] Third, studies in this field may be especially resource-intensive, requiring researchers to invest substantial resources (e.g., time, volunteer work, reciprocal agreements) in building trustful relationships with supply and demand side actors, especially if the research objective is emancipatory and the methods inclusive (see O'Neill, 2010). Fourth, researchers often find data unavailable or unreliable, relying heavily on anecdotal information, questionable official estimates, and imperfect methodologies (see Andreas & Greenhill, 2010). Finally, research in this area may be marginalized or diminished within academic circles, discouraging scholars from engaging it as a topic of inquiry. Challenges may include a lack of specialized conferences, receiving callow questions instead of thoughtful feedback when presenting papers, not being taken seriously, and having to explain and justify engagement with the topic (see Voss, 2012).[9] As scholars who focus on deviant behavior have long reported, those who study stigmatized populations at times themselves are subjected to those same stigmas—a phenomenon called "stigma contagion" (Kirby & Corzine, 1981).

Despite these challenges, a social science literature on cannabis has emerged. While only one study has focused explicitly on the intersection of political consumerism and cannabis (Bennett, 2017a), cannabis research today is addressing a broader range of theories and empirical questions than before. Traditionally, studies focused on domestic drug policy (e.g., Bear 2017; Cerda and Kilmer, 2017; Hajizadeh, 2016); political economy (e.g., Weisheit, 2011); international cooperation on controlled substances (e.g., Nordstrom, 2007); public health issues, such as addiction and impaired driving (e.g., Wettlaufer et al., 2017); criminal justice and the War on Drugs (e.g., Corva, 2014; Polson, 2013); and the sociology of "cannabis culture" (e.g., Bottorff et al., 2013; Hathaway, 1997, 2004; Sandberg, 2012). Today, researchers are publishing articles on a broader range of topics. In 2013, for example, the *Humboldt Journal of Social Relations* published a special issue

on “Current Perspectives on Marijuana and Society” that included work on gender, activism, and patient-grower relationships. Similarly, *Cannabis and Cannabinoid Research* (established in 2015) publishes on “the scientific, medical, and psychosocial exploration” of cannabis, including research on consumer behavior (e.g., Haug et al., 2016). Although research on political consumerism in cannabis faces special challenges, legalization seems to have provoked growth in the literature, perhaps because it has prompted new sources of funding, such as corporations, philanthropic foundations, private colleges, and government agencies in places where cannabis is legal (Eisenstein, 2015).

Research Methods

This chapter draws on diverse types of data that were collected in multiple ways and analyzed using a variety of methods. First, the data draw on two years (August 2015 to August 2017) of field research within the cannabis industry, including collecting data from 64 dispensaries in Portland, Oregon; 100 hours of pro bono consulting for an emerging nonprofit focused on labor issues; over 50 interviews and informal conversations with industry actors; participation in cannabis conferences and events in Portland, Oregon and Vancouver, British Columbia; a few days on a cannabis farm in Humboldt, California; and several informal conversations (phone, Skype, and in person) with Canadian and US-based social scientists studying cannabis. This research was intended both to generate a broad understanding of the sector and to collect specific types of data to answer research questions related to several discrete projects.

Second, the research process systematically identified and read all relevant articles published in the last two years in five media outlets. To identify relevant articles, research included conducting a Boolean search for (cannabis OR marijuana) AND (organic OR “fair trade” OR fairtrade OR “fair labor” OR “workers rights” OR “labor practices” OR “socially responsible” OR “alternative agriculture” OR “co-op” OR “labor union”). A search was then made in the *New York Times* and *Globe and Mail* (major newspapers from each country); the *Oregonian* and *Vancouver Sun* (regional publications from an area of each country renowned for more liberal drug policy and pervasive cannabis culture); and *The Huffington Post* (an online outlet likely to cover this topic). The results found 145 articles published between June 1, 2015 and June 1, 2017, and 48 relevant articles were read. The purpose was to direct attention to relevant issues, initiatives, debates, businesses, agencies, leaders, and organizations that had not emerged in the field research.

Finally, there was a review of two sets of academic literature. The first set covered the cannabis industry, including history, public policy, and social science, which were read in order to understand the process and context of legalization. The second set focused on political consumerism in Canadian and US domestic agri-food products, which offered insights on how political consumerism emerged and manifested in other sectors. These literatures come from scholars across disciplines, including anthropology, business/management, economics, geography, international relations, political science, public health, public policy, sociology, and, occasionally, the natural sciences. The analysis that follows is a case study drawing on data from field research, a systematic review of media coverage, and two sets of academic literature.

Case Study: Political Consumerism in the Context of US and Canadian Cannabis Legalization

Before Legalization

In both the United States and Canada, legalization advocates engaged in traditional forms of democratic political participation. They mobilized voters, lobbied elected officials, raised money for campaigns, and pressured politicians and celebrities to publicly express support. Before medicinal cannabis legalization, advocates framed prohibition as an immoral legal restriction that shortchanged a morally deserving subset of consumers: seriously ill or dying patients (Dioun, 2017, 2018). Once activists gained a legal foothold, they extended the moral boundaries to include safe access for all adult consumers (Dioun, 2017, 2018). This framing often focused on the ubiquity and social acceptance of safe adult cannabis consumption (Harris & Morris, 2017). Political consumerism was used to support these efforts: consumers publicized their consumption and others' acceptance of consumption in an effort to convince the public and the state that cannabis consumption is "normal" (Heddleston, 2012). Normalization, in the context of cultural attitudes toward drug use, refers to a widespread acceptance, marked by easier access, higher consumption rates, and greater tolerance from nonconsumers (Parker, Williams, & Aldridge, 2002). Though the process of normalization is not fully understood, the idea is that the more normal something is the more difficult it is to sustain support for its prohibition (Erickson & Hathaway, 2010).

In this context, political consumerism took the form of "alternative lifestyle" politics. In this mode of activism, individuals leverage their everyday practices, tastes, consumption habits, leisure activities, modes of speech, and dress to challenge predominant norms (Haenfler, Johnson, & Jones, 2012). Examples include veganism, upcycling, DIY (do it yourself), self-sufficiency, and voluntary simplicity (e.g., Dobernig & Stagl, 2015; Zamwel, Sasson-Levy, & Ben-Porat, 2014). This form of activism is at once an individual decision to opt out of a cultural norm and a collective action that challenges the status quo (Haenfler, Johnson, & Jones, 2012). In cannabis, US and Canadian activists used alternative lifestyle politics to suggest that adult consumption is common, can occur in moderation, may address health issues, and does not preclude productivity or healthfulness (Hathaway, Comeau, & Erickson, 2011).

Activists used a variety of tactics to advertise cannabis consumption as a feature of mainstream culture. Celebrities, such as Barack Obama, Oprah Winfrey, and a handful of Fortune 500 Company executives, disclosed their past or current consumption habits (Bukszpan, 2015), suggesting that consumption was not limited to countercultural icons such as Ben Harper or Bob Marley (see Plume, 2012, p. 155). Less famous activists also

opened up. Cannabis consumption parties held in highly visible spaces, such as college campuses—“4/20 smoke-outs”—drew hundreds of participants keen to put their consumption on display (Harvey, 2014; TIME, n.d.).[10] For several years protesters have held smoke-outs in front of the White House, where “dozens, perhaps hundreds” of people consumed cannabis in public and in front of the media as a political act of civil disobedience (Heddleston, 2012), most without receiving even a $25 ticket for breaking the law (Nelson, 2016). Finally, cannabis consumers and legalization advocates promote normalization in other, more subtle ways, such as listing rental properties as “4/20 friendly,” wearing t-shirts featuring a cannabis leaf outline, and selling cannabis paraphernalia in their stores (Heddleston, 2012). Through their lifestyles, cannabis advocates frame consumption as normal, prohibition as antiquated, and prohibitionists as the “counterculture” subgroup that has fallen out of touch. Through lifestyle politics, political consumerism aimed to turn social norms and stereotypes on their head.

Compared to supply-side actors, consumers of illegal cannabis have been freer to participate in political consumerism. Cannabis consumers can openly discuss their illegal market activities (purchasing and consuming cannabis) without risk, so long as they are not found in possession of illegal quantities. Supply-side actors, on the other hand, are less able to avoid association with criminal activity. They risk having their farms, storage facilities, transportation systems, and distribution networks investigated or raided (Polson, 2013, 2015). Typical supply-side political consumerism activities—such as creating transparent supply chains, sharing stories about the people behind a product, and creating inclusive, collective business models—seem less available to producers in sectors that are not fully legal. In illegal industries, supply-chain actors may have limited information about where products come from or where they are going, and they may be hesitant to disclose information about their own business operations. During prohibition, for example, aspiring cannabis farmers would ask plant nursery employees for advice on growing “tomatoes” to avoid identifying their crop (Weisheit, 1990). Given these constraints, it is not surprising that in the early 1990s, before medicinal consumption was legalized, advocacy placed medical consumers—such as AIDS patients—in the spotlight, instead of cannabis farmers (Dioun, 2017).

After California legalized medicinal cannabis in 1996, nearly a decade passed before an initiative emerged to facilitate ethical purchasing transactions between supply-side and demand-side actors. In 2004, a California marijuana compliance attorney (who also worked as the program director of a US Department of Agriculture [USDA] organic certification company) launched Clean Green Certified to audit and certify cannabis against its own set of environmental (and later labor) standards for cannabis. In August 2015, twenty years later, with recreational cannabis already available in two states and legalized in one more, systematic internet searches for ethical purchasing initiatives yielded only five results. All were small membership associations and certifications, none of which met ISO-65 or ISEAL standards.[11] In Oregon, where medicinal cannabis has been legal since 1998, only two dozen Oregon growers had any kind of certification (Crombie, 2015b), and ethically oriented producers struggled to differentiate their products and fetch higher prices in the marketplace (Harbarger, 2015). As one grower

explained, he wanted his cannabis to “appeal to the grass-fed beef and organic-tomato crowd” but had yet to identify what kind of packaging and outreach would help facilitate such a transaction (Harbarger, 2015).

This analysis of political consumerism in cannabis before legalization suggests that leadership emerged from the demand side, efforts emphasized normalization and aimed to achieve legalization, and the alternative lifestyle approach was more common than ethical purchasing initiatives.

After Legalization

As cannabis transitioned from illegal to semilegal (and illicit to licit) in Canada and several US states, the contours of political consumerism began to shift. The focus transitioned away from normalization and began to focus on the goal of differentiating select cannabis products as “ethically” sourced. Leadership also moved from demand side to supply side, as newly licensed producers and distributors began to publicly self-identify, network, and organize. As cannabis consumption became less of an “alternative” lifestyle, the political consumerism approach of creating and purchasing ethical products came to the fore. This section describes political consumerism in the context of a newly legalized cannabis sector, in which both legal and illegal market activities were taking place.

In places where legal cannabis was available, “buy legal” advocates began asking consumers to *boy*cott black market cannabis and *buy*cott legal dispensaries. The campaign was not centrally organized, it did not have a leader or figurehead, and participants did not coordinate actions or framing. Journalists, public figures, and cannabis industry actors propagated this form of political consumerism in an ad hoc way (e.g., Berlanga, 2016). Their rationale often dovetailed with legalization arguments about the costs and consequences of the War on Drugs.[12] In a *Huffington Post* article, for example, a journalist compared purchasing illegal cannabis to purchasing “blood diamonds”—diamonds that have been smuggled and sold in ways that promote violent conflict.[13] Titled “It’s Very Possible You’re Smoking ‘Blood Weed,’” it asks readers:

> How can you go and be very particular about buying only fair trade coffee and then go home and smoke dope that was produced by women who were being gang raped and kidnapped and murdered and all of that?
>
> (Brekke, 2015)

Aside from the “buy legal” campaign, the ethical purchasing initiatives that emerged after legalization largely mimicked initiatives already in place for other agri-food products. Several farmers and retailers branded themselves as environmentally friendly. As with other sectors, some claims were not trustworthy. A 2015 investigative report revealed that some farmers marketing products as “organically grown” did not actually know how to grow organically. Others made exceptions to organic specifications or simply

inflated claims (Crombie, 2015a). A 2016 study similarly suggests that retailers may make claims without evidence or information (Bennett, 2017a). Unsurprisingly, suppliers with a strong commitment to ethical production sought to differentiate their earnest processes from greenwashed claims.

In both the United States and Canada, cannabis producers pursued organic certification. In both countries national government bodies facilitate multistakeholder standards-setting processes, manage third-party auditing systems, and provide certification information for farmers. The US Department of Agriculture's National Organic Program (USDA/NOP) and the Canadian Food Inspection Agency's Canada Organic Regime (CFIA/COR) have similar histories, standards, and consumer statistics,[14] and since 2009 have recognized each other's certifications (CFIA, 2016). However, the organic agencies differed in their response to requests for organic cannabis certification.

In Canada, several cannabis producers have CFIA/COR organic certification. In 2003, Island Harvest, a small legal medicinal cannabis farm, met the British Columbia Organic Certified Program Standards (which are CFIA compliant) and became the first certified cannabis producer in the country (Himelfarb, 2003; Meissner, 2003). Since Health Canada began permitting larger "commercial" farms, two commercial operations have become certified according to the CFIA/COR standards: OrganiGram in New Brunswick (Arsenault, 2014) and Whistler Medical Marijuana Corporation in British Columbia (Baker, 2016).

In the United States, however, the USDA/NOP has unequivocally stated that organic standards cannot be applied to Schedule I drugs, including cannabis (Stone, 2014; USDA, 2016). Violations of organic labeling regulations can result in fines of up to $11,000, although (in 2015) a spokesman for the USDA/NOP said the agency had not taken enforcement action against cannabis producers or processors using the designation (Crombie, 2015b). There seems to be great demand for organic certification, however. According to employees of Oregon Tilth, an accredited USDA organic certification organization, farmers were calling very frequently to request information about organic cannabis standards or to schedule an audit.[15] In the absence of legal USDA organic labeling, or enforcement of false claims, unaudited "organic" products proliferated. In 2015, one journalist wrote that in "any marijuana dispensary in Portland" one would find marijuana "labeled as organic" (Crombie, 2015a).

In the absence of USDA organic certification, some US cannabis producers reported pursuing other voluntary certifications, such as Fair Trade (from the organization Fair Trade USA), but were unable to identify an existing organization willing to apply standards and extend labeling to cannabis products. During research for each article, contact was made for each of the domestic fair labor and sustainability certification programs included in a recent academic article (Jaffee & Howard, 2016) and/or in a recent watchdog review of US domestic agriculture certifications (FWP, 2016) were contacted for comment: the Agricultural Justice Project (Food Justice Certified), Coalition of Immokalee Workers (Fair Food Program), Ecocert (Fair For Life), Equitable Food

Initiative (Responsibly Grown, Farmworker Assured), Fair Trade USA (Fair Trade Certified), and Sustainable Agriculture Network (Rainforest Alliance). Each organization confirmed that it would not extend standards and certification services to the cannabis sector. Most of the organizations expressed fear that certifying cannabis would result in reputational damage and/or donor withdrawal of support (see Bennett, 2017a).

In the United States, about a dozen nationwide cannabis-specific standards-setting organizations have emerged to certify cannabis as "ethical," including the Cannabis Certification Council (CCC), Certified Kind, Clean Green, EnviroCan, the Foundation of Cannabis Unified Standards, Patient Focused Certification (PFC), Resource Innovation Initiative (RII), Oregon Sungrown Certified, and The Cannabis Conservancy (TCC). Additionally, several state and regional certifications have formed, such as the Certified Clean Cannabis program by the Maine Organic Farmers and Gardeners Association. Interviews and website reviews suggest that these initiatives share a lot in common. Most have a similar origin story. As the founder of Kind Certified describes:

> Over the years, a lot of growers would contact us [an organic certifier] and see if their cannabis crops could be certified organic. The response was "no" because of the USDA. Certified Kind was born as an alternative for organic cannabis growers. We put our heads together and came up with the Certified Kind standard based on international organic standards and the USDA. We tried to make sure we captured what organic really means and then adapted it for cannabis growers.
>
> (Aitchison, 2014)

Most of the cannabis-specific certifications do not follow what scholars (e.g., van der Ven, 2015) or practitioners (e.g., ISEAL, 2017) have identified as best practices in standards-setting and certification. Typically, founders are business entrepreneurs with a connection to the cannabis industry, environmental regulation, or organic agriculture and access to capital. None of the certifications are worker-driven or formed by a nongovernmental organization (NGO) or social movement. Most are for-profit enterprises, aimed at selling a service to supply-side actors aiming to differentiate their products in the marketplace. Many do not have transparent governance structures or standards-setting processes. Most are unclear about which types of stakeholders are invited to participate in multistakeholder consultations and/or do not have a method for identifying and incorporating the perspectives of traditionally marginalized groups, such as farm workers, which is a critical prerequisite for challenging conventional power dynamics (Bennett, 2017b). Like most sustainability labels (see Bennett, 2017c), the new certifiers focus on the environment more than labor, with labor standards largely reifying—not raising—state and national laws. Each certification's leaders seem acutely aware of the other initiatives, and many of the leaders have met one another or talked on the phone and are aware of their similarities and differences. Most initiatives have decided to compete against one another, though a few mergers have occurred. As of early 2016,

Clean Green remained the only certification with market recognition in Portland, Oregon (Bennett, 2017a).

In addition to voluntary certifications, several initiatives have emerged to facilitate market transactions between cannabis producers and consumers. These initiatives aim to support small farmers who are committed to sustainable methods and who may struggle to compete with the economies of scale available to larger producers (see Crombie, 2015c). These initiatives are similar to the direct trade, relationship trade, and farm-to-table programs that have emerged in other agri-food sectors. Flow Kana, for example, is a nonprofit farmers' cooperative that works as a technology platform (similar to Uber or Airbnb). It helps wholesale cannabis farmers sell directly to customers/patients:

> We partner with, and give scale to, premier artisan farmers in Mendocino County and Southern Humboldt [both in California] who focus on small batch, boutique strains…. We've developed close-knit relationships with heritage farmers who have grown cannabis sustainably in small batches for generations. Using only organic methods, these stewards of the land have spent their lives balancing a unique and harmonious relationship between the farm, the genetics and the terroir. The result is an unparalleled product for qualified patients that simply cannot be found anywhere else.
>
> (Flow Kana, 2017)

The ethical purchasing initiatives described above are largely industry-driven. Although one study suggests consumers do inquire about the availability of "environmentally friendly or socially responsible" cannabis (Bennett, 2017a), the movement toward ethical purchasing does not appear to be consumer-driven. There is no evidence of consumer advocacy organizations, social movement organizations, environmental groups, or fair labor watchdogs organizing boycotts, buycotts, protests, or naming and shaming campaigns. Dispensary workers speculate that consumers are not more demanding of ethical products because they confuse cumbersome state regulation of the sector with high environmental and labor standards, or they are not yet applying ethical frameworks for other agri-food products to this newly legal industry (Bennett, 2017a). Some dispensary workers have perpetuated these consumer misconceptions by providing poor information about cannabis production, labor, government regulations, and the environment. For example, some dispensary workers say *all* cannabis is organic—because "that's part of the hippie culture"—while others insist that organic methods are not possible for cannabis (Bennett, 2017a). Leadership is emerging from supply-side actors aiming to differentiate their products in the marketplace (and receive a higher price). Companies and groups of industry actors—not consumer groups or social movement organizations (SMOs)—organize and sponsor events like the Cultivation Classic, the "world's only cannabis competition exclusively for ethically-grown product" (Barnhart, 2016), and panel discussions about cannabis and the environment (Women Grow, 2016).

Discussion: Legal Status and Political Consumerism

Political Consumerism and Legalization: Three Shifts

The case of cannabis legalization in the United States and Canada highlights three ways in which shifts in political consumerism may coincide with changes in legal status. First, the objective of political consumerism may shift from being narrowly focused on normalization and legalization to addressing ethical issues related to methods of production. Second, political consumerism before prohibition may manifest as alternative lifestyle politics—in an effort to frame engagement as socially acceptable, ubiquitous, and mainstream—and shift toward ethical purchasing and marketing after legalization. Finally, leadership in political consumerism may be more likely to emerge from consumers during prohibition—because they have less to lose—but shift to supply-side actors after legalization, as ethically oriented producers aim to differentiate products in the marketplace.

Special Challenges for Political Consumerism in Illegal, Semilegal, or Newly Legalized Sectors

Analysis of this case suggests several challenges for political consumerism in illegal, semilegal, or newly legalized sectors. First, during prohibition, supply-side actors may be less likely than consumers to engage in public advocacy, leadership, and organizing because their participation in illegal activities may be more difficult to deny or obscure, and the consequences may be greater. In the case of cannabis, the consequences for owning and profiting from an illegal cannabis farm are much greater than the punishment for being in possession of a small amount of cannabis intended for personal consumption. Second, existing ethical purchasing initiatives may not expand into semilegal or newly legalized sectors. In the case of cannabis, US and Canadian standards-setting organizations were unwilling to extend their certification programs to cannabis—even decades after the medicinal market was legalized—because of potential risks to their reputations or "organizational stigma" (see Dioun, 2018).[16] Third, consumers may assume that newly legal sectors are so thoroughly regulated by the state that ethical purchasing does not apply. In Oregon, for example, dispensary workers suggested that many consumers believe that because the state mandates farm licensing, pesticide testing, and other forms of industry oversight, consumers do not need to worry about supply chain ethics (Bennett, 2017a; see Crombie, 2015d). Consumers accustomed to purchasing cannabis on the illegal market may not be in the habit of asking detailed questions about cannabis supply chains. Such engrained consumption habits can limit political consumerism even among ethically committed consumers (Lyon et al., 2014).

Consumers who had limited access to cannabis during prohibition may also be in the habit of feigning ignorance about ethical issues in the sector, out of a sense of desperation and lack of a more ethical alternative (Beckert & Wehinger, 2013). These issues create special challenges to recruiting political consumers.[17] Finally, because legalization advocates argued that a legal industry would be more ethical (e.g., fair to workers and considerate of the environment) than the illegal trade, it can be difficult to highlight ethical problems. In the case of cannabis, illegal cannabis production was often associated with environmental degradation and violent drug-trafficking networks. It may be difficult for ethical purchasing initiatives to point out the ways in which legal farms may also affect the environment and foster abusive conditions for workers.

Potential Consequences of Illegality, Semilegality, or New Legality on Political Consumerism

This section examines how the challenges associated with legal status may affect the efficacy of political consumerism. First, illegality or history of prohibition may delay the development of ethical purchasing initiatives. In the case of cannabis, ethical labeling was delayed by existing certifications' unwillingness to extend standards to cannabis, the private sector's reticence to develop certifications for a small medicinal sector, and new label organizers' inexperience with sustainability standards-setting processes. Second, ethical purchasing initiatives designed by industry actors may not follow best practices for ethical standards setting, such as being not-for-profit, avoiding conflicts of interest via third-party auditing, making standards public, and including workers in standards-setting processes. Industry actors' generated or co-opted standards are more likely to dilute standards and avoid challenging traditional power hierarchies and inequalities in the supply chain (Jaffee & Howard, 2010). Third, new initiatives aiming to mimic how political consumerism has taken shape in other sectors may simply repeat typical shortcomings. For example, they may marginalize labor issues (Brown & Getz, 2015); target a niche, such as an elite consumer base (Alkon & McCullen, 2011); or facilitate "not-in-my-body" forms of activism that provide opportunities for privileged individuals to avoid health hazards instead of eradicating them for the entire community (Szasz, 2007). Finally, a sector unwilling to draw negative publicity to itself may be slow to educate consumers about its less desirable attributes, such as labor abuse and environmental degradation. This may be especially problematic if political consumerism initiatives are led by industry actors and for-profit organizations, as opposed to SMOs. As a result, consumers may not receive the information they need to engage in ethical purchasing initiatives. Overall, political consumerism in the cannabis sector is distinct from other sectors, and this distinction appears to be related to the sector's legal status.

Political Consumerism, Legality, and Democracy

On one hand, this case illustrates political consumerism's capacity to complement traditional forms of political participation. Alternative lifestyle politics played a role in normalizing cannabis consumption. This aided lobbyists in framing prohibition as antiquated and convincing citizens and elected officials to respond to cultural shifts. In the United States, ethical purchasing initiatives also responded to demand for environmental labeling when the USDA refused to participate. In these ways, political consumerism is being used as a tool to promote democratic legislative processes and address collective action problems unresolved by the state. On the other hand, this case also highlights ways in which political consumerism may challenge democratic values. On a most basic level, flouting the rule of law and encouraging illegal behavior—like all acts of civil disobedience—may be considered anti- or undemocratic, though many disagree. Additionally, by glossing over the sector's environmental and social problems, inequalities may be further obscured and entrenched. Furthermore, ethical purchasing initiatives in cannabis (like other agricultural products) focus more on environmental issues—such as localism, pesticide use, and renewable energy—than issues of social and economic justice (Brown & Getz, 2015). On rare occasions when initiatives do engage social issues, the conversation seems to be largely limited to supporting local family farms (Bennett, 2017a on cannabis; Alkon, 2013 on other sectors). In this way, injustices related to labor are ignored, reified, and entrenched.

Conclusions

This chapter examined the interactions between legal status and political consumerism by drawing on insights from the US and Canadian cannabis markets in their transitions toward legality to legality over the last two decades. It used empirical evidence to illustrate how legality can affect the goals of political consumerism, the approaches employed by political consumerism activists, and the types of actors that come forward to lead political consumerism initiatives. A sector's illegality, semilegality, or newly legal status may present special challenges to political consumerism, including silencing producers, confusing consumers, marginalizing social movement organizations, and creating incentives to obscure sector-specific ethical issues. In the case of cannabis, these challenges stunted the development of political consumerism and hindered adoption of best practices, such as consumer education campaigns and robust multistakeholder standards-setting organizations. In the case of the Canadian and US cannabis markets, political consumerism and legal status clearly have import for one another as well as for the democratic process.

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Notes:

([1]) See Beckert and Dewey 2017 on the economic sociology of illegal markets.

([2]) US population figures from “U.S. and World Population Clock” (US Census Bureau) at https://www.census.gov/popclock/?intcmp=w_200x402. Canadian figures from “Population by Year, Province, and Territory” (Statistics Canada) at http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/demo02a-eng.htm.

([3]) Cannabis farm work and trimming (cutting the bud from the stem) is only low-skilled work if quality standards are low, which is more typical on the black market.

([4]) Inhaled pesticide residue may be more toxic than if eaten (Sullivan, Elzinga, & Raber, 2013).

([5]) Personal conversations with faculty at public universities in Colorado (December 2016) and California (May 2017).

([6]) H.R. 3614—101st Congress (1989–1990).

([7]) Personal conversation with faculty at a public university in Canada (June 2017).

([8]) Personal conversation with faculty at a public university in Canada (June 2017).

([9]) Author’s personal experience and personal conversation with faculty at a public university in Canada (June 2017).

([10]) “420” is a nickname for cannabis and the date 4/20 is its unofficial holiday.

([11]) ISEAL is an NGO that provides guidance for international social and environmental standards-setting organizations. Its Code of Good Practice is a global reference for good social and environmental standard-setting processes (see Bartley & Smith, 2010; Loconto & Fouilleux, 2014). The International Organization for Standardization (ISO) is an intergovernmental organization and the world’s largest developer of voluntary standards. Guideline 65 requires certification bodies to be transparent, unbiased, and independent from standards-setting bodies.

([12]) See also in this volume the related chapter on mining and political consumerism (Stoddart et al.).

([13]) “Blood weed” riffs on *Blood Diamond*, a 2006 film dramatizing the violence associated with conflict diamonds.

([14]) About 43% of American households report they have purchased organic foods in the last thirty days (Pew, 2016) and about 57% of Canadians report buying organic products weekly (MacKinnon, 2013).

([15]) Personal correspondence with two Oregon Tilth employees.

([16]) See also in this volume the related chapter on sensitive and dilemmatic political consumerism (Micheletti and Oral).

([17]) See Dubuisson-Quellier (2015) on political consumerism as recruitment.

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