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MEXICAN CANNABIS REFORMS: A GREENER APPROACH- *Apurv Umredkar*¹**ABSTRACT**

The spike in violence and homicides across Mexico made it necessary for the Mexican Authorities to implement and enact such laws that will be effective in curbing illicit drug trade. More than a decade has passed, but the tactics of government are not able to curtail the powerful drug cartels and their activities. Instead the latter have been growing and flourishing in an unprecedented level since its inception. The recent major step surrounding cannabis laws in Mexico might prove beneficial in getting a control on violence and bloodshed. The legalization of cannabis will at least enable the flow of cannabis products through a legal channel by the legal sellers. Unlike drug cartels, there will be a systematic network right from cultivation to the selling it on stores. The Mexican Authorities move towards the legalization with the hope that this will enable them to control Mexico more diligently. This article strives to non-exhaustively analyze the government's move towards legalization of cannabis in Mexico and the aftereffects of the same. Currently the bill has been passed only by one house (*Senate*) and is awaiting the results of the second house (*Chamber of Deputies*). According to the speculations the bill is most likely to be passed by the latter as well. With the upcoming legalization wave not only across Latin America but also the whole world, the bill might get an edge over the contrary result.

INTRODUCTION

Mexico is currently on the brink of decriminalizing consumption of cannabis across the nation and introducing ease of doing business for legal cannabis providers. Recently, the Mexican Senate (Upper House of Parliament) passed a landmark² Cannabis Legalization Bill by the ratio of 82:18³, which seeks to establish cannabis friendly regulations for recreational purposes across the Mexico. The objective behind the bill was stated in the statement issued by the

¹ Author is a Law Graduate from KIIT School of Law KIIT University, Bhubaneswar, Odisha. He may be contacted at apurvumredkar1@gmail.com.

² <https://www.reuters.com/article/idUSE1N2BP014>

³ <https://www.senado.gob.mx/64/votacion/3712>

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Senate as “to promote peace and security in society, contributing to the reduction of the illegal market for psychoactive cannabis and with it, organized crime, corruption and violence.” Various supporters of the bill gathered outside the Senate to show their enthusiasm. According to them, legalization would sabotage the nexus between Organized Crime and Cannabis Trade. The move came 3 year after the Mexican Supreme Court and General Health Law gave their opinion about illegality of cannabis as was widely applauded considering the recent emerging trends and awareness among people about the cannabis use and its several health benefits. After successful execution it will lead to the commencement of world’s largest legal cannabis market. With the fresh UNCND (United Nations Commission on Narcotic Drugs) decision to remove⁴ medical marijuana from the list of dangerous drugs mentioned in Schedule IV of Single Convention on Narcotic Drugs 1961, this Mexican move was surely anticipated by the industry experts. The bill⁵ provides for regulations and allow the consumption, selling and buying of cannabis within the permissible limits and suggested guidelines. Also the Mexican Institute for Regulation and Control of Cannabis will be established for regulation of cannabis industry. Earlier it was due to be passed by December 2020, but was extended to April 2021⁶ (citing upcoming complexity of the bill, ongoing pandemic & elections) through the permission granted by the Supreme Court to Chamber of Deputies. It is yet to be approved by Chamber of Deputies. If passed the bill would allow Mexican citizens to grow upto 4 plants and possess upto 28 grams (1 ounce) of cannabis (maximum) for personal consumption. By this step, Mexico has placed itself in the list of those countries which have legalized consumption of narcotic drugs especially cannabis. Uruguay⁷ is the first country in the world to decriminalize marijuana for personal consumption in limited quantities. Afterwards, Canada⁸ places itself 2nd among the list. And now Mexico will take the 3rd position. Although the list of countries who have legalized cannabis doesn’t end here. Apart from three it includes - Georgia, South Africa and Netherlands and some states of US (legalized for recreational purposes). While Brazil, Chile, Colombia, Italy, Denmark, Finland, Germany among others have legalized for medical purposes only.

MEXICAN EMPHASIS OF THE BILL

⁴ <https://news.un.org/en/story/2020/12/1079132>

⁵ https://www.senado.gob.mx/64/gaceta_del_senado/documento/114017

⁶ <https://www.reuters.com/article/us-mexico-cannabis/mexicos-president-says-small-mistakes-behind-delay-in-landmark-cannabis-bill-idUSKBN28P2H4>

⁷ <https://www.reuters.com/article/us-uruguay-marijuana-vote-idUSBRE9BA01520131211>

⁸ <https://fortune.com/2018/10/17/canada-marijuana-weed-legalization-uruguay/>

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The country is infamous for its narco-culture and its direct influence on the Mexican society and people. Drug cartels have infiltrated each and every level of the government. Even the Police & Military often times work for the cartel bosses. This is because the consequences of not working or cooperating with them are very unpleasant ones. Through bribes or intimidation the cartel always manages to remain several steps ahead of the law enforcement. The Mexico's nexus with cannabis is why the term '*Marijuana*' was coined. It originated in Mexico and became widely used across the world to refer to cannabis. It is believed that one of the finest qualities of cannabis in the world is grown in '*Sierra Madre*' mountain range of Mexico covering the three states of Durango, Sinaloa and Chihuahua (popularly known as the *Golden Triangle*). '*Sierra Madre*' is heavily filled with fields and areas rich in cultivation of illicit drugs - marijuana, poppy, cocaine and heroine. The list is non-exhaustive.

It would be fair to say that Mexico can be termed as drug capital of the world in the sense that majority of the drug cartels operating in the world hail from Mexico. The drug cartels (often referred to as *Transnational Crime Organizations*) are so deeply embedded in the Mexican culture and society that its effect can be felt in the common lives. Disappearances, Extrajudicial Killings and Torture are part of daily lives of Mexicans. The country has always been the epicentre for manufacturing, production, packing, distributing and selling of illegal drugs to the whole world. Criminal Enterprises have thrived here for decades. The country is gripped in the iron-fists of powerful drug cartels who leave no stone unturned in maintaining their control over the lucrative areas (especially the US-Mexican border cities such as Tijuana, Ciudad Juarez, Nuevo Laredo and Nogales). As a result there is a constant clash and violence among rival cartels or between cartel gunmen and Mexican Police/Military. The cartels astutely manage to run their drug empire and protect it from rivals and law enforcement through bribery and intimidation. Due to its geographical location and narco-politics, Mexico became a hub for illegally smuggling drugs to the United States. Earlier, the Mexican counterpart moved tons of drugs for the Colombian counterpart. With time, Mexico stepped up its own drug production and reached new heights in the era of drug trafficking. Now majority of the drug trafficking activities are carried out by Mexican Drug Cartels. Sinaloa Cartel earns upto \$ 3 Billion⁹ per year estimated profits. Out of this revenue, 60% comes from marijuana. The remaining 40% comes from heroin methamphetamine, synthetic opioids. According to a report on *Transnational Crime* by Global Financial Integrity the total annual revenue of the whole illicit

⁹According to the Forbes Magazine 2009 Edition.

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drug industry amounts to a staggering \$ 500 Billion¹⁰. One can clearly imagine level of violence and consequences when such astonishing figures are involved. The marijuana fields of Sinaloa state of Mexico produce some of the world's best marijuana with the THC levels of more than 15%¹¹. This is the reason why Mexico became a Heartland for drug trade. And as the above mentioned problems were becoming more and more common among the citizens the Mexican government had to react. It couldn't withstand the cartels firepower & sophisticated machinery. Cartels always managed to outnumber military men. As a result the hell-bent government had no other option than to introduce the legalization bill.

WAR ON DRUGS

In the year 2006, the then Mexican President Felipe Calderon launched an all out war on drug cartels and drug trade. The campaign was named as '*War on Drugs*' which signified the rooting out of corrupt Mexican officials and drug cartels operating within the jurisdiction of Mexico. Ironically, the purpose for which it was introduced in 2006 hardly matches with the current practical situations in ground level. Many Mexicans believe that the government is doing nothing for them and instead is under cartel control by bribes, infiltration and intimidation. From 2006 till now around 1,50,000 people have been murdered in cartel violence¹² in Mexico, apart from the tens of thousands of missing persons. The murder-rate has more than tripled since 2006. Family members of the victims have long lost the battle as they mention that everybody is involved in this game. Top Mexican Bureaucrats, Governors, Central Ministers are always in the pocket of drug kingpins. Cartels operate by the help and cooperation of government. This controversial problem controversial '*War on Drugs*' in Mexico has had a devastating effect not only across Mexico but to the world. Since its inception, the death tolls due to cartel violence and turf wars have significantly increased. The year 2019-2020 has been one of the most horrifying years for Mexican people and has surpassed all previous years record of homicides. The beginning of 2020 brought with it COVID-19 wave across the whole world. With its devastating effect on every aspect of society, the pandemic has been tough on drug cartels as well. The lockdown measures made it difficult for them to transport and smuggle drug shipments across the border to the United States. As a result, the survival and operation of

¹⁰ https://seureservercdn.net/45.40.149.159/34n.8bd.myftpupload.com/wp-content/uploads/2017/03/Transnational_Crime-final.pdf#page=13

¹¹ <https://wayofleaf.com/cannabis/strains/mexican-marijuana-strain>

¹² https://justiceinmexico.org/wp-content/uploads/2017/03/2017_DrugViolenceinMexico.pdf

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multi-billion dollar industry (Illegal Drug Industry) came to a still. This created a sense of fear among cartels, and in order to maintain their stronghold and dominance they resorted to other illegal ways of gaining money like extortion, kidnapping, arms dealing and smuggling. The failed strategy of War on Drugs called for a astute and technical approach in dealing with illegal drug trade. As a result, the most effective tool of legalizing drugs was sought by the Mexican Authorities in case of Cannabis since it is a softer product compared to other hard drugs. On a general purview

AFTEREFFECTS OF LEGALIZATION

The step (enacting the bill) taken by the Mexican Government is anticipated to be the most effective moves for curbing cartel violence and drug menace in Mexico. The enactment of the law will ensure channeling of marijuana across the market is done legally. The bill exhaustively lays down the regulations and protocols for setting up of legal marijuana shops and dispensaries in Mexico. As a result, the illegal trade of cannabis will get affected. When the pot smokers and medical marijuana users will be able to buy safe and clean cannabis in a legal manner from lawfully authorized dealers without any fear of consequences, I don't suppose anyone would buy mixed, adulterated and impure cannabis from drug dealers. Street level Peddlers often cut¹³ the main drug with other similar looking substances. The illegal drug trade will be going to suffer alot. The whole process of marijuana business right from cultivating and harvesting to final consumption, all aspects will be governed by the relevant authorities of Mexican Government. The scope of illegal marijuana players is diminishing rapidly with the upcoming trend of cannabis being considered as acceptable in social and cultural codes. Seeing the growing opportunity Canadian Cannabis Companies are trying to establish their business in the Mexican Market. Canada already has legalized cannabis a long time ago. Several companies, startups, online shops, websites and associations pertaining to Cannabis Industry have started emerging since a couple of years. On the same note, Mexico's legal cannabis market is not in proper codes, but it surely will once the bill gets passed by both the houses. The Canadian businesses are eager to grab this opportunity. Mexico has been on the radar of such companies since it is the perfect place keeping in mind the large population base, climate, low labour costs, and availability of workers. Canopy Growth and The Green Organic, among the largest

¹³They do so in order to increase their profits. Also the potency of the drug increases by mixing adulterants and making it impure. For example - Chalk Powder and Salt is mixed with Cocaine. Several chemicals are inserted into heroin to make brown sugar.

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cannabis companies across the globe has shown interests in the Mexican market pursuant to the successful enactment. Activists and Enthusiasts of Cannabis have geared up for opening their respective business in the industry. Many farmers who are earning their bread by providing their grown cannabis to illegal drug trade. The law will enable the farmers to earn legal money by growing the same crop in a legal and permissible manner under the lawful authority. The currently on hold bill and is expected to be passed by Chamber of Deputies (Lower House of the Parliament) by the end of April 2021.

MEDICAL MARIJUANA LAW

Apropos Medical Marijuana, another regulation¹⁴ issued by Mexican Health Ministry laid down the prescribed rules and byelaws one has to follow in dealing with medical marijuana. The Medical law has been given assent by the President Andres Manuel Lopez Obrador in January 2021. The main aim behind the enactment of this bill is to oversee, promote and control the medicinal or therapeutic use of cannabis, its extracts, raw materials and derivatives. It is targeted to big pharma companies interested in cannabis medical research and are dealing with controlled substances. The provision of export of Mexican grown cannabis and pharmaceutical derivatives is strictly prohibited, but certain imports can be allowed with prior permission. The regulation will now enable pharmaceutical companies to engage in research, development and experiment on Medical Marijuana and develop substitutable cannabis medicines which will help patients to get rid of chemically composed harmful medicines. The laws for growing, cultivating and harvesting of medical marijuana is also stipulated therein. Some excerpts from the bill pertaining to quality control, reporting and protocols are mentioned below -

- The mandatory provision of Quality Control Lab in every setup or branch of the pharma company.
- Abiding rules and regulations of the respective medical research that company is looking into.
- Protocols pertaining to advertisement, sale, and after sale services as per the local norms.
- The storage, packaging, processing & distribution of the final material.

¹⁴ <https://www.reuters.com/article/us-mexico-cannabis/mexico-publishes-medicinal-cannabis-regulation-creating-new-market-idUSKBN29H2AG>

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- To acquire Research License, the companies must compulsorily take the Health Ministry's permission, from its Health regulator **COFEPRIS** - *Comisión Federal para la Protección contra Riesgos Sanitarios* under Ministry of Health. Its English translation - Federal Commission for the Protection against Sanitary Risk.
- Companies interested in production and growing of cannabis in order to further conduct medical cannabis researches have to take prior permission from SENASICA - *Servicio Nacional de Sanidad, Inocuidad, Calidad Agroalimentaria* under Ministry of Agriculture. Its English translation - Safety and Quality Service (SENASICA) of the United Mexican States. After issuing of production permit, the company can commence cultivation of cannabis as per the norms.
- Prescription of drugs containing THC or CBD can only be given by practitioners who obtain special bar code for providing prescription services.

CURTAILMENT OF UNNECESSARY ARRESTS

Successful implementation of this bill will also help in eliminating unnecessary arrests of alleged cannabis possessors. Every year several people face criminal charges and trials for having caught with possession of cannabis. It accounts for 40% of all drugs busts across the globe. Many Latin American countries like Mexico, Brazil, Colombia, Venezuela, Peru and Chile are suffering from the problem of overcrowding in jails. Jails here hold upto ten times its capacity of number of prisoners. The over-crowding problem in prisons can be effectively dealt with invoking the regulations under this bill. The legalization will mean that the cannabis users cannot be prosecuted or arrested if there isn't breach of any thresholds set by the relevant legislative act or statute. Also in case of an arrest, the penalties will be liberal than ever before.

CONCLUSION

There are several aspects of benefits by enactment of the above mentioned two legislation in Mexico. Cannabis Industry is undoubtedly, one of the most flourishing ones across the market. The bill brings with itself a strong base for legal cannabis market and CBD medical cannabis market. The narco-ties with political elites is not a new thing in Mexico. And with the critical issues surrounding 'War on Drugs', this is the only peaceful way to restore normalcy and safe lives of many Mexicans still suffering from brutality of the drug cartels. Apart from curbing

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cartel's drug revenue, it will provide proper platform to legal franchise in cannabis market. The Global Cannabis Industry, the financial figures of which revolve around billions of dollars a year will take a spike after the legalization. Currently, the United States is also going through the legislative and formal procedures for the bill (*MORE Act*) to legalize cannabis for medical as well as recreational purpose. Since it is a federal country, each and every state has the power to make its own laws on certain aspects and subjects. On the same note, laws apropos cannabis are not uniform across the United States. Each state has its own set of rules for cannabis consumption. Some states allow only medical use, some allow both medical as well as recreational purposes, and some don't allow at all. Keeping in mind all these points, the US Parliament is at chaos as to how to deal with this bill tactfully. Bill regarding medical use in Mexico has already been passed in January 2021. And for recreational use, the bill is under process. If Mexico passes its recreational use bill early than US, then the latter will be under pressure regarding its own bill. The legalization in Mexico can severely impact the legislators in the US. If it happens US will be bordered by 2 of its closest neighbors who have legalized marijuana. This sandwich like situation will surely make a bad impact on US Cannabis Market and Economy and overall International Trade and Business Relations with other nations. But if the US follows the Mexico's footsteps, then surely the trio - United States, Mexico and Canada can form a strategic alliance in the global cannabis industry. There's a lot more to come in the cannabis world. As of now, the cannabis enthusiasts and activists are eagerly waiting for the decision of the Chamber of Deputies. Mexico has surely inspired many Latin American countries by making this move. Chances are that similar legislation could be introduced by them since they are facing the same crisis of illegal drug trade.

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