
Legalization Of Marijuana In Zimbabwe

The cannabis or marijuana industry is one of the fastest developing industries in the world, as trends point at more countries (which have previously criminalized the cultivation and processing of cannabis), moving towards adoption of the industry and its sub-sectors after realization of the potential socio-economic impacts offered by the industry. More notable has been an adoption of the industry by emergent novice African markets, where these new entrants in the industry are often driven by an awareness of the need to keep up with global trends and prospects to manipulate significant economic returns offered by this industry. These new players who are responding to this awareness often attempt at immediate participation in the industry through provisioning of some form of enabling environments and competitive alternatives that solicits strategic positioning in the global cannabis race in terms of investment and time effectiveness. Their goal is at delivering viability and innovation in effort to fully exploit the opportunity. This entrepreneurial awareness however presents an immediate and subservient need for such countries to come up with new ground-breaking cannabis policy positions and frameworks that enable and encourage the establishment of the industry and this process is often confronted by a serious knowledge gap where research has attributed many problems and difficulties in establishing the appropriate legal actions and instruments to support the safe trade of cannabis which will not violate international law and which avoid the imposed barriers used to argue for the protection of society from illicit acts.

The process of developing a legal framework to adopt this industry has pointed towards processes of implementing knowledge from other parts of the world and identifying the best method of learning required to do so, given that each country faces unique challenges concerning the subject of substance abuse. An ethos of knowledge sharing, transfer, creation, adoption, implementation and learning that centres on development of appropriate legislative frameworks for cannabis is needed in these countries that have an interest to effectively establish their own Cannabis industry. As more African countries develop an interest to adopt this new and significant economic phenomena they seem unprepared for such ethos and remain subject to sensitivities of threats of dangers from substance abuse offenses reducing their efficacy in the rate of adoption of marijuana industries. This study will employ research to identify how African countries can reconcile the demand to participate in the establishment of Cannabis industries by developing appropriate and effective legislative policy with a clinical focus on international law, the law and protection of society and the law and attraction of investment. The study shall propose legal adoption strategies that can be employed for African countries with such industrial interests.

BACKGROUND

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In 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, illicit substances are categorized by the World Health Organization in one of four schedules according to their dependency and harm inducing potentials. Cannabis which is scheduled under Schedule I substances is subject to the most stringent control measures according to these Conventions where for example the preamble to the Single Convention on Narcotic Drugs states that its focus is the “health and welfare of mankind,” and that “addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger.” To this effect, Article 4(c) of the convention limits “exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession” of illicit substances, and Article 36(1a) requires state punishment for their possession, production, sale and delivery. Article 3(2) of the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances specifically criminalizes possession of drugs and their consumption.

Trends

Most member countries of the United Nations are signatories to these treaties and are legally obliged to follow these Conventions and therefore do have local statutory policy's which reflect on the tone of these treaties which have acted as a barrier to the introduction of drug industries such as the cannabis industry. This however is a development which over the years has seen numerous contestation and interpretation challenges given that firstly, the entire plant genus of Cannabis is scheduled in Schedule I when there several cannabis plant species which have different characteristics with respect to narcosis that have been unfairly scheduled together with the narcotic species during implementation of the convention by states. Although narcosis is the principle concern of the Conventions, which informs this scheduling procedure the conventions also remain insensitive to these differences limiting legislative actions to explore industrial and recreational uses of marijuana. Secondly there is a challenge on how nations enforce these conventions through criminal codifications as some employ the most drastic measures which need serious review. Countries do have some flexibility in implementing the UN drug-control conventions as all three conventions allow deviations if required by a country's constitution.

Bolivia leveraged this exception by changing its constitution in 2009 to give its citizens the explicit right to use, produce and sell coca leaf, which nevertheless attracted criticism from the International Narcotics Control Board as an “unprecedented step” that was “contrary to the fundamental object and spirit of the Convention. While several countries have found means to comply with the letter of these international laws Portugal, for instance, diverts drug offenders away from typical criminal punishments, such as prison sentences, toward mandatory education classes, treatment sessions and fines. The Netherlands continues to criminalize marijuana possession but does not enforce this law against people with small quantities. Other

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jurisdictions have legalized marijuana in ways that clearly violate the UN drug-control conventions, as such an example is Uruguay, which in 2013 became the first country to pass legislation allowing the production, sale and consumption of marijuana for commercial and recreational purposes. In the United States, Colorado and Washington have similarly created legal markets for marijuana under state laws, leaving the country in noncompliance with its international legal obligations despite the compliance intention of its federal government, this discrepancy arises from the unique constitutional division of powers in the United States that gives individual states primary control over criminal matters. Similarly these trends continue to spread around the world where in Africa, Lesotho has emerged as the first country to permit trials of marijuana production, while Zimbabwe has become the first African state to attempt to make some descriptive distinctions in its cannabis policy framework through Statutory Instrument 62 of 2018 to legalize marijuana.

In a speech to the United Nations (UN) General Assembly on April. 20, 2016, Canadian Health Minister Jane Philpott reiterated her government's electoral promise to legalize marijuana, including for recreational use. Although this announcement has been widely celebrated in the public health community, such legislation certainly violates the UN drug-control conventions that Canada is legally obliged to follow. This federal government immediately took proactive steps to seek a reservation to the marijuana provisions of these treaties and to initiate their renegotiation in light of its legalization plans. If these diplomatic efforts completely fail, Canada will have to formally withdraw from these treaties to avoid undermining international law and compromising its global position. Although efforts to decriminalize and even legalize marijuana could be helpful for public health if done right, these approaches violate the UN drug-control conventions, at least in spirit if not also in the letter of these laws. The spirit of international laws matters because the 1969 Vienna Convention on the Law of Treaties specifically requires countries to interpret conventions in light of their "object and purpose" lest all international laws unilaterally be made void of any real meaning. Canada may be less concerned with international laws when it comes to marijuana, but the country has an interest when these laws govern genocide, nuclear disarmament or human rights and cannot set a precedence encouraging other countries to do the same.

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