

IDPC Briefing Paper

Cannabis in Mexico

an open debate

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The International Drug Policy Consortium (IDPC) is a global network of NGOs and professional networks that specialise in issues related to illegal drug production and use. The Consortium aims to promote objective and open debate on the effectiveness, direction and content of drug policies at national and international level, and supports evidence-based policies that are effective in reducing drug-related harm. It produces occasional briefing papers, disseminates the reports of its member organisations about particular drug-related matters, and offers expert consultancy services to policy makers and officials around the world.

Introduction

In August 2010, before a meeting of academics and representatives of civil society organisations, Mexican President Felipe Calderón declared that the legalisation of illicit drugs could contribute to reducing the power held by organised crime. He quickly added, however, that this was not an option that would be considered by his own administration. His statements unleashed a series of comments from politicians, the media and many sectors of Mexican society that had until then remained silent. Among noticeable politicians' remarks was the statement by former President Vicente Fox, who declared that the only way to solve the serious security problems faced by Mexico was to legalise illicit drugs. As such, he joined his own predecessor, Ernesto Zedillo, who, as a member of the Latin American Commission on Drugs and Democracy, has pushed for drug policy reform in the region, particularly with regards to cannabis. As we shall see in this paper, the drugs debate in Mexico is not a new topic for the political agenda. This document presents a general overview and analysis of the cannabis debate in Mexico.

Historical perspective on illicit drugs in Mexico

The history of cannabis in Mexico, while not as ancient as in other regions of the world, can be traced back to five centuries. The cannabis plant has been constantly present in Mexican society, economy and culture, since it was introduced by the Spaniards in the 16th century, either in the form of products fashioned from the hemp, for traditional medicinal purposes, or as a psychoactive substance.

In the 20th century, the geographic, economic and cultural proximity to the United States played a determining role in Mexico's drug policy. It was not until the 1980s, however, that cannabis trafficking came to be considered as a truly important issue for the country's public security. This was caused in part by the pressure exercised by the United States to combat the cannabis trade, but also by the expansion and competition in the illicit drug market experienced after the introduction of the Colombian cocaine, a phenomenon that increased the levels of violence and corruption within and beyond the different governmental security agencies.

This period also coincided with a noticeable increase in demand for drugs in the United States, a phenomenon that provided incentives for the consolidation and expansion of the drug trade both within and outside of Mexico's borders. This process also resulted in the consolidation of cannabis consumption in Mexico, as was reported by the 2008 National Survey on Addictions. The survey demonstrates that cannabis is the most widely used illicit drug in Mexico, with cannabis use prevalence reaching up to 4.2% of Mexicans aged between 12 and 65.³ These results coincide with the data reported by the International Narcotics Control Board's 2009 annual report, which states that "cannabis is by far the most commonly used drug among young and older adults: in 2007, 3.3-4.4 percent of the world's population aged 15-64 years reported having used that drug in the past year."⁴

Evolution of the political debate on cannabis

In that context, Mexican drug policy began to undergo a qualitative transformation. For years, different academic and civil society groups had been calling – even if sporadically – for an approach that would be more regulatory and less repressive when it came to cannabis. Politicians, however, rejected any debate on the matter, arguing that Mexico could not modify its drug policy if the United States or the international prohibitionist approach to drugs did not evolve as well.

However, with the steady growth of cocaine trafficking en route to the United States in the 1980s, the economic interests and criminal characteristics of the illicit drug trade took on unprecedented proportions. What had been considered as a marginal part of the criminal and economic spheres of the country in earlier decades had then begun to acquire a primary importance.

Simultaneously, the mechanisms for competition

between political parties in Mexico became more democratic, and the state was no longer able to exercise hegemonic control over all the decisions made in the country. This culminated in 2000 with the election of Vicente Fox – representative of the conservative opposition "National Action Party" – as president of Mexico. After Fox's election, the delicate balance that had been reached in the fields of drugs and crime seemed to fade away, and the violence and the worsening "war on drugs" triggered significant negative consequences for the country for the following decade.

The legalisation or regulation of cannabis use only became an issue for public debate in 2000, when an emerging political party became the first to include legalisation as one of its political campaign issues.⁵

Since then, the debate over cannabis has constantly been part of the Mexican political arena, and different proposals for regulation started to be presented by various political parties, such as *México Posible* in 2003, *Alternativa Socialdemócrata* in 2006, *Partido de la Revolución Democrática* in 2008, *Partido Socialdemócrata* in 2009 and *Convergencia* in 2010. The issue was introduced in federal legislative circles in 2008, with the first "Conde Initiatives".⁶

One initiative should be especially highlighted here – a bill proposing the regulation of cannabis was presented to the State of Mexico in 2009 by a group of citizens. Since it is highly difficult to address the issue of drugs through the local legislative process, the use of the citizen initiative mechanism is particularly interesting.

Cannabis Policies in the 21st Century

While the Mexican cannabis movement came to life in the first years of the new century, it was not until 2007 that these demands started to crystallize into concrete proposals in the country's legislative arena.

The new century opened the door for cannabis to appear openly in the country's social and political landscape. The first legislative attempt regarding cannabis in the Mexican political sphere was introduced by the new, but short lived, *Democracia Social*, which proposed in its political programme a radical review of drug policy, with the legalisation of cannabis as the first priority. Another early mention came from Congressman Gregorio Urias, of the *Partido de la Revolución Democrática* (PRD), who stated, "what I have proposed in the OAS and here in Mexico is for there to be debate." The *Partido México Posible* revived the issue during the 2003 mid-term elections, as did *Alternativa Socialdemócrata* in 2006, the PRD in 2008 and the *Partido Socialdemócrata* in 2009. Despite these different proposals, however, the debate on cannabis has not yet generated enough force for there to be serious discussions about a new government policy.

The law passed in August 2009 to decriminalise possession of small quantities of drugs for personal use deserves special attention. On 2nd October 2008, the executive branch submitted to the Senate a package of integral security reforms that included the so-called "small-scale drug dealing law" (*Ley de Nacromenudeo*) which states that possession of small quantities of illegal substances for personal use would no longer be subject to prosecution. More particularly, the law stipulates that people detained with five grams or less of cannabis for personal use will not face prosecution. Although this law could be seen as decriminalising drug possession, it actually maintain prohibition intact and increases the levels of punishment imposed on people caught with greater amounts of drugs than those prescribed by the law (more than five grams in the case of cannabis). In so doing, this increases the risks for people using drugs to be considered as criminals since the retail market tends to operate with larger quantities of illicit drugs than those fixed as by the law.⁷ Nevertheless, the law contains an undeniable conceptual advancement by distinguishing between occasional users, problematic drug users and small scale drug dealers.⁸

Finally, the trend towards the regulation of medical cannabis in many U.S. States has stimulated the debate in Mexico, especially in the lead up to the 2012 presidential elections, and political parties are recognising that the drug policy followed by President Felipe Calderón offers a clear opportunity to gain political dividends within the voting population. The campaign around "Proposition 19",⁹ which will be on the ballot in California at the November elections, has not gone unnoticed in the national debate in Mexico and several public figures, above all politicians (including the president), are starting to refer to this proposition as a wake-up call for Mexico's strategy to change. These shifting viewpoints on drug policy were mainly caused by the human and material costs that have resulted from the war on drugs waged by President Felipe Calderón's administration. It has now become clear among Mexican politicians and the general population that there is a clear contradiction in using weapons to combat a phenomenon that is gaining formal and legal recognition in the world's first cannabis-consuming nation. As a result, it would not come as a surprise if the presidential candidates running to succeed Calderón in 2012 are forced to define a concrete position regarding cannabis.

The following chart presents a brief summary of the legislative proposals presented to date at the different legislative levels in Mexico. When an initiative is described as being in a commission, it means that it is waiting to be discussed and approved in specific legislative commissions before being approved by vote by the full chamber. The final approval of a bill therefore depends in large measure on the political will of the members of these specific commissions.

Legislative initiatives aiming to regulate cannabis in Mexico until July 2010

	General regulation	Lawmaker, date of presentation, current stage of the process	Comments
Recreational consumption	The recreational use of cannabis does not represent any social dangers and it poses fewer health risks than any other drugs, whether legal or illegal. As a result, the bill proposes that cannabis users not be subject to jail sentences and instead be provided with education and information.	Federal Congresswoman Elsa Conde Rodríguez, of the <i>Alternativa Socialdemócrata</i> party. LX Legislature. Presented on 27 th Nov. 2007. On the docket of the House of Representatives' Justice Commission.	It is the first formal bill presented to regulate cannabis in Mexico.
Legal possession / Federal district assembly of representatives	The initiative attempts to create legal figures for the possession of small quantities for personal consumption.	Assembly Members Jorge Carlos Díaz Cuervo and Enrique Pérez Correa, of the <i>Partido Social Demócrata</i> .	Because it was a local issue, the initiative was not debated.
Medicinal cannabis	Within the framework of the international treaties that proclaim the right of people to have safe access to essential medicines, this initiative proposes the inclusion of cannabis as a useful substance to treat different diseases. It would be administered like any other legal drugs through a prescription. The bill also calls for scientific research of the plant's medicinal properties.	Federal Congresswoman Elsa Conde Rodríguez, of the <i>Alternativa Socialdemócrata</i> party. LX Legislature. Presented on 6 th March 2008. It is on the docket of the House of Representatives' Justice Commission. It was rejected by the Health Commission.	Although it was rejected by the Health Commission, there is a possibility that the bill could survive a vote by the Justice Commission.
Industrial hemp	The bill proposes the legalisation of hemp production at the national level to create a new industry, given that the free-trade agreements signed by the country make it legal to import and sell products made of hemp, such as string, thread, fibres, paper and garments.	Federal Congresswoman Elsa Conde Rodríguez, of the <i>Alternativa Socialdemócrata</i> party. LX Legislature. Presented on 4 th Sept. 2008. It is on the docket of the House of Representatives' Economy Commission.	There appears to have been an obvious political decision not to debate this bill, even though there is no reason to oppose it, since the bill does not treat with the plant as an illicit drug and some products made from hemp are legal in Mexico.
Legalisation	The bill points out to the lack of an effective mechanism to prevent the use of illicit drugs, as well as the poor results of the current strategy for combating drugs. It proposes the legalisation of the cannabis plant and regulation of its sale and related industries by the state to safeguard public health and contribute to improved public security.	Presented by Senator René Arce on 9 th Oct. 2008. It was sent to the Justice, Health and Public Security Commission and then to Legislative Studies. It has not been discussed.	While the initiative addresses many of the most important points on the regulation of cannabis, it is unlikely that the Senate will bring it up for debate in pre-electoral years or before 2012.

Legalisation / federal district assembly of representatives	<p>The bill calls for the complete regulation of all possible uses of the plant, from production to retail.</p>	<p>Assembly Member Víctor Hugo Círigo, of the PRD Caucus.</p> <p>Presented to the assembly on 14th Oct. 2008.</p> <p>It is unlikely be to debated, given the long legislative process it would have to follow.</p>	<p>Given that all drug laws in Mexico are federal in nature, the scope of this proposal is limited. It would have to be approved by the assembly and then presented to the House of Representatives. Despite its local nature, this proposal sparked public debate on cannabis in the country.</p>
Legalisation / State of Mexico	<p>The bill proposes the legalisation of the plant and regulation of its sale by the State, with a special emphasis on the rights of users.</p>	<p>Citizen initiative in the State of Mexico.</p> <p>Presented on 12th Jan. 2010 in the State of Mexico's Congress.</p>	<p>Given that all laws in Mexico related to drugs are federal in nature, the scope of this proposal is limited. However, it is important that this initiative was presented directly by a group of citizens, one of the options for proposing legislative bills in the State of Mexico.</p>
Risk and harm reduction	<p>The bill proposes the possibility of allowing medicinal use of cannabis through a state-regulated system, as well as a plan to reduce the risks associated with drug use in relation to illicit markets in order to reduce incentives for drug trafficking.</p>	<p>Federal Congressman Víctor Hugo Círigo, of the <i>Grupo Parlamentario de Convergencia</i>.</p> <p>Presented on 21st April 2010.</p> <p>It is on the docket of the Health and Justice Commissions in the House of Representatives.</p>	<p>This bill has attracted more attention than any other initiative. There is a strong likelihood that the bill will be debated in this legislative session, given that its sponsor is a member of the Justice Commission.</p>

Conclusion

Judging from the legislative process that has taken place so far, and from the political debate currently taking place among high-level politicians, it seems that Mexico already has a solid political and legislative platform of discussion regarding cannabis. Without being identical, each of the initiatives presented so far propose the decriminalisation of cannabis users, the regulation of the cannabis market and improved access for industrial and medical purposes to a plant which has such an important place in current Mexican culture.

Knowing that it would be impossible to win the war on drugs according to the terms defined by the government, Mexican civil society has gradually been pushing for a national discussion that would be more realistic and less ideological on cannabis. In the immediate future, it will be interesting to observe when and how Mexican politicians will decide to face, rather than avoid, the cannabis debate, whether this will bring them political dividends at the polls, and how taking such decisions will benefit a country that has been severely affected by the war on drugs.

Endnotes

- 1 President of the Collective for an Integral Drug Policy (*Colectivo por una Política Integral hacia las Drogas*).
- 2 President of the Mexican Association for Cannabis Studies (*Asociación Mexicana de Estudios del Cannabis*).
- 3 *National Study on Addictions 2008* (2009). CONADIC / Health Secretariat: Mexico.
- 4 International Narcotics Control Board (2009), *Report of the International Narcotics Control Board for 2009*. UN.
- 5 Democracia Social. National Political Party (2000). *Election Platform 2000-2006*. Mexico.
- 6 This is the name given to a series of three initiatives proposed by former Federal Congresswoman Elsa Conde Rodríguez, the first lawmaker to formally promote a change in Mexican laws regarding this plant.
- 7 For additional information see: Carlos Zamudio and Jorge Hernández Tinajero (October 2009). *Mexico: The law against small-scale drug dealing. A doubtful venture*. Series on Legislative Reform of Drug Policies, No. 3. TNI/WOLA. <http://www.druglawreform.info/images/stories/documents/dlr3s.pdf>.
- 8 IDPC will be publishing a briefing paper on the impacts of the 'Ley de Narcomenudeo' in the coming months.
- 9 In November 2010, the State of California, USA, will submit by referendum the so-called "Proposal 19", which provides for the legalisation of the production, distribution and use of cannabis for people over 21 years old. For now, the results of the referendum are difficult to predict.



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