

## LEGALIZING MEDICAL CANNABIS AND AVOIDING ILLICIT MARKETS IN NIGERIA: A TRIPARTITE CASE STUDY ANALYSIS TOWARDS ACHIEVING AN EFFECTIVE MARKET MODEL

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**Abstract:** *As Nigeria contemplates the legalization of medical cannabis to unlock its therapeutic and economic potential, it is imperative to learn from the experiences of pioneering nations. This paper conducts a comparative analysis of three distinct regulatory models—Canada’s comprehensive federal legalization, the Netherlands’ pragmatic tolerance through its coffee shop system, and the United States’ fragmented state-by-state approach—to dissect the persistent drivers and adaptive practices of illicit cannabis providers. Despite the establishment of legal medical and, in some cases, recreational markets, illicit operators have demonstrated remarkable resilience. The paper argues that their persistence is not a failure of legalization per se, but a direct consequence of specific policy designs that create competitive advantages for the illegal market. Through a detailed examination of the regulatory gaps and consumer preferences, the paper illuminates why illicit markets endure. It recommends a distinct pathway for the legalization of cannabis in Nigeria arising the different models of the three countries examined, to avoid the pitfalls inherent in their individual models. For Nigeria, the lessons are clear: a successful medical cannabis program must be deliberately designed to outcompete the illicit market from the outset. This requires a careful balancing act—implementing smart tax policies to ensure price competitiveness, creating inclusive and accessible regulatory frameworks that do not exclude small-scale farmers or patients, ensuring comprehensive product and geographic coverage, and learning from the enforcement pitfalls of the case studies.*

**Keywords:** *Cannabis, medical cannabis, legalization, illicit markets, drug policy, Nigeria, Canada, Netherlands, United States.*

### Introduction

Cannabis, known locally in Nigeria as ‘igbo’ or ‘wee’, is the most widely consumed illicit drug in the country. As a member of the comity of nations, Nigeria maintains a strict prohibitionist policy towards cannabis to align with its international obligations (Igenyi & Aneke, 2024: 86). However, since the beginning of the 21<sup>st</sup> century, the global landscape has shifted significantly towards legal therapeutic uses of cannabis to manage diverse medical conditions (Bewley-Taylor, 2014: 44). To date nearly fifty countries have legalized cannabis for medical and recreational purposes. (WHO 2018). The increasing trend of legalization has

put Nigeria at a crossroad to either maintain the status quo or cautiously embrace a regulated medical cannabis market that could offer patients relief, generate economic growth, and undermine criminal enterprises.

Recent attempts have been made to amend the National Drug Law Enforcement Agency (NDLEA) Act to empower the NDLEA to grant and revoke licences for cannabis cultivation for medicinal and scientific purposes, and export of cannabis oil to countries where it is legal for therapeutic uses, signaling a major policy shift by Nigeria (Kwen, 2023; Abeku, 2025). However, the journey from prohibition to effective regulation is fraught with challenges, and the experiences of early-adopting nations provide an invaluable blueprint for an effective model. A critical, and often underestimated, challenge is the persistence of illicit markets even after legalization. The naive assumption that legal availability automatically eradicates illegal supply has been proven false in jurisdictions that have legalized cannabis. Thus, from the bustling cities of Canada to the iconic coffee shops of Amsterdam and the varied landscapes of American states, illicit cannabis providers have not merely survived, they have adapted and thrived alongside legal frameworks for permissible uses (Cheekes, 2022: 22). The success of any future Nigerian medical cannabis program will be measured not only by the number of patients it serves but also by its ability to shrink the illicit market that has long fueled organized crime and compromised public safety (Bish, et al. 2022; Edet, 2024: 191; Shaw & Reitano, 2013: 25).

This paper posits that the resilience of illicit markets is a direct reflection of policy and legal design flaws in jurisdictions that legalized cannabis. Thus, by conducting a tripartite comparative study of Canada, the Netherlands, and the United States, this paper will dissect the multifaceted drivers—economic, regulatory, and social—that sustain illicit providers. It will explore how these illegal operators have refined their practices to compete, and ultimately, recommend concrete, actionable lessons for Nigerian policy and lawmakers. The central issue intended to be addressed is how Nigeria can design a medical cannabis framework that learns from the missteps of others to effectively transition consumers from the illicit to the licit market, thereby achieving its public health and security goals.

## **1. Illicit Markets in Cannabis: Theoretical Underpinning**

To understand the stubborn resilience of illicit providers in jurisdictions with legalized cannabis, it is essential to view their persistence through several theoretical lenses. These frameworks help explain why the simple act of legalization is insufficient to dismantle entrenched illegal economies.

### **1.1 Economic theory**

According to Gary Becker's economic theory of crime, individuals engage in illegal activities when the expected benefits outweigh the potential costs (Becker, 1968: 178). This suggests that illicit market persists in jurisdictions with legalized cannabis because it remains economically viable to trade on the black market due to relative freedom from taxation, regulatory compliance costs, and licensing fees (Smart & Pacula, 2019: 671). These advantages allow illicit providers to offer significantly lower prices, creating a powerful draw for cost-sensitive consumers. Thus, illicit markets operates as a classic example of black market responding to price signals and market inefficiencies created by the legal framework itself (Kilmer, 2019: 573).

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## **1.2 Consumer behaviour theory**

Consumer behaviour theory moves beyond pure economics to explain why individuals may choose an illegal source over a legal one. The decision is not binary but a complex calculation involving price, convenience, product quality, privacy, and trust (Donnan, et al. 2024). A patient in rural Nigeria, for instance, might prioritize convenience and cost over the perceived safety of a regulated product if legal dispensaries are distant and expensive. Established relationships with local suppliers, built on years of trust, can also create a powerful inertia that legal markets struggle to overcome (Donnan, et al 2022).

## **1.3 Regulatory capture theory**

The theory of regulatory capture and unintended consequences warns that well-intentioned regulations can sometimes backfire (Caulkins & Kilborn, 2019: 1). Overly restrictive, complex, or expensive regulatory frameworks can create insurmountable barriers to entry for legitimate businesses (Global Commission of Drug Policy, 2018). This inadvertently reserves the market for two groups: large corporations that can afford compliance and the pre-existing illicit operators who simply ignore the rules (Stiglitz, 2009: 16). When regulations limit the number of licenses, restrict product types, or impose cumbersome bureaucratic hurdles, they create protected market niches where illicit providers can continue to operate with minimal competition.

## **2. Legal Landscape on Cannabis in Nigeria**

Nigeria's legal landscape on cannabis has its roots in colonial policy under the Dangerous Drugs Act (DDA) of 1935, which was enacted to align the colony with international drug control treaties (Ekwenze, 2013). The DDA established the core regulatory template for cannabis, defining "Indian Hemp" broadly as any part of the *cannabis* plant and its resins (s. 2). Crucially, while it criminalized unauthorized activities such as production, possession, sale and distribution of the drug, it also empowered the President to make regulations for controlled production and distribution, and permitted licensed export with proper certification (DDA s. 3; Olumide & Udofa, 2019).

This hardened stance was retained after independence under the Indian Hemp Act (IHA) of 1966, which prescribed the punishment of either death or imprisonment for not less than twenty-one years for the cultivation of cannabis (IHA s.2(1)). The Act prescribed other severe sentences for possession (minimum four years imprisonment, s.5(1)), sale, and even the use of premises for consumption of cannabis (minimum ten years, s.7(1)). However, the IHA in section 3(1) confirmed and preserved the DDA clause for "the importation or sale of any medical preparation of Indian hemp in circumstances such that no offence against the Dangerous Drugs Act is committed thereby". This would include where the President has issued a licence for such importation, sale or distribution. Subsequent amendments of the IHA in 1975 and 1984, and the establishment of the National Drug Law Enforcement Agency (NDLEA) in 1989, further entrenched a war-on-drugs ideology in Nigeria (Uduo & Ibiba, 2024: 13).

The NDLEA Act makes the National Drug Law Enforcement Agency (NDLEA) the primary enforcement body for drug related offences in Nigeria (s. 3(1)(b); Udama, 2013). The

Agency operates with wide-ranging powers to investigate, arrest, and prosecute drug offenders (s. 8). It mandates life imprisonment for the cultivation and trafficking of cannabis (s. 11 & 20), and places the burden of proving lawful authority squarely on the accused—a reversal of the typical burden of proof that underscores the law’s severity (s.20(1); Idris, 2023: 19).

However, notwithstanding the hardened criminal approach to cannabis in Nigeria, a thorough review of both the Dangerous Drugs Act (ss. 3, 7 & 9) and the Indian Hemp Act (ss.3, 5 & 9) alongside the National Agency for Food and Drug Administration and Control (NAFDAC) Act of 1993 reveals a splinter of statutory hope that hints at potential liberalization and even legalization of cannabis either for medicinal or recreational purposes. The National Agency for Food and Drug Administration and Control (NAFDAC) empowers NAFDAC to “grant authorisation for the import and export of narcotic drugs and psychotropic substances as well as other controlled substances” (s.5). It however, mandates the Agency to ensure that such narcotic drugs and psychotropic substances are limited to “medical and scientific purposes”. This establishes the legal basis for a medicinal cannabis framework, which stands on a ‘tripod’ of law that collectively contemplate *regulated* medical use (Olumide & Udofa, 2019; Emeka, et al. 2025).

### **3. Case Study Analysis of Legalized Cannabis Jurisdictions and Illicit Markets**

#### **3.1 Canadian Model**

Canada presents a compelling case of a nation that embarked on a bold, nationwide legalization of both medical and recreational cannabis, yet continues to grapple with a significant illicit market (Armstrong, 2021). The Canadian Cannabis Act of 2018 established a federally regulated market (s.6). However, the high costs of regulatory compliance, extensive taxation (including federal excise and provincial markups), and initial supply chain inefficiencies resulted in legal cannabis prices being 30-50% higher than illicit alternatives (Andresen, 2024: 1). For medical patients, many of whom face financial hardship and lack insurance coverage for cannabis, this price differential is a decisive factor. Furthermore, the initial rollout was plagued by limited product variety and quality control issues, frustrating consumers and driving them back to reliable illicit sources (Gibbs, et al 2021: 13; Goodman, et al 2020).

After the enactment of the Act, the illicit market for the product evolved drastically to match the competition. Illicit providers simply enhanced the quality of their product to mimic the packaging and branding of legal goods and adopted e-commerce and delivery services, which offered greater convenience than legal dispensaries constrained by provincial regulations on sales and operating hours (Hathaway, et al 2021:307). They leveraged their established, direct-to-consumer networks and offered bulk discounts and loyalty programs—strategies often restricted in the legal market. This resulted in a thriving illicit market system that dwarf the legal market in the initial phase after the reforms but declined to an equilibrium (Statistics Canada, 2023).

#### **3.2 The Dutch Model**

The Dutch model of cannabis legalization is world-famous for its “coffee shops”, where the retail sale of small quantities of cannabis is tolerated (Korf, (2019: 3). However, this system contains a fundamental flaw that has institutionalized the illicit market.

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The Netherlands operates a policy of *gedoogbeleid* (tolerance) (Anemaet, 2025: 211). While the *front door* of the coffee shop is legal, the *back door*—the supply of cannabis to these shops—remains entirely illegal (Knottnerus, 2023). This creates a schizophrenic market: regulated, taxed retail outlets are supplied by unregulated, criminal wholesalers. This “back-door problem” means the state effectively tolerates and even depends on illicit production to sustain its legal retail framework (Boermans, 2010: 29).

This model has fostered sophisticated and large-scale illicit cultivation networks that supply the coffee shops. Because these suppliers operate outside the law, there are no quality controls, safety standards, or legal oversight of their operations. The system also does little to disrupt the illicit street market, as consumers who wish to avoid the higher prices of coffee shops or seek different products can still easily find illegal sellers (Shepherd, 2022: 21).

## 3.3 The United States Model

The United States offers a decentralized, fragmented approach, with individual federal states implementing their own medical and recreational laws in the face of continued federal prohibition (Health Affairs, 2021). This creates a unique set of challenges and opportunities for illicit providers.

The state-by-state legalization creates massive price and availability disparities. Illicit providers engage in cross-border smuggling from states with lower prices or more permissive laws to those with stricter regimes or higher taxes (Hao & Cowan 2020: 642). Federal prohibition creates additional hurdles for legal businesses, such as lack of access to banking services, which increases their operating costs and makes it harder to compete with cash-only illicit operations (Redford, et al. 2024: 85).

The conflicting legal landscape in the United States provides illicit operators the ideal environment to engage in economic arbitrage and exploit the inefficiencies created by lack of a unified national market. Thus, illicit providers of cannabis benefit from the confusion and resource limitations of law enforcement, who must navigate a complex web of conflicting state and federal laws (Hansen, et al. 2020). Research has consistently shown that states with restrictive medical programs (limited qualifying conditions, few dispensaries) see far less displacement of the illicit market than states with accessible, adult-use legalization (Shepherd, 2022).

## 4. Comparative Analysis: Synthesizing the Drivers of Illicit Persistence and Lessons for Nigeria

By placing the experiences of Canada, the Netherlands, and the U.S. side-by-side, a clear and consistent pattern emerges, which highlights the universal drivers of illicit market resilience, and establishes a blueprint for avoidance of such deleterious effects in jurisdictions intending to legalize cannabis.

**Table 1.** *Drivers of Illicit Market Resilience*

Driver	Canada	Netherlands	USA	Core Lesson for Nigeria
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<b>Price Differential</b>	High taxes & compliance costs make legal cannabis 30-50% more expensive (Mahamad, et al. 2020).	Coffee shop prices are higher due to risks in the illegal supply chain.	Cross-state price arbitrage and federal banking issues keep illicit prices low (Hao & Cowan 2020).	Keep initial taxes and regulatory costs low to achieve price parity.
<b>Regulatory Gaps</b>	Initial supply shortages and limited product variety.	The serious "back-door" supply problem (Knottnerus, 2023).	State-level fragmentation and restrictive medical programs in some states (Health Affairs, 2021).	Ensure a consistent, quality-controlled supply and a unified national policy.
<b>Consumer Access &amp; Convenience</b>	Limited dispensaries in some regions; illicit delivery often more convenient.	Coffee shops are accessible, but illicit street dealers remain.	"Dispensary deserts" in many areas; illicit delivery services fill the gap (Shi, 2016).	Ensure geographic distribution of legal access points and consider safe delivery options.
<b>Supplier Transition</b>	High barriers to legal entry pushed some growers to stay illicit.	No legal pathway for suppliers, entrenching illicit networks.	Social equity programs in some states attempt to address this, with mixed success.	Create accessible, tiered licensing to bring existing growers into the legal fold.

## 5. The Nigerian Context: Applying the Lessons

Nigeria's situation is unique, characterized by a large, existing illicit cultivation industry, significant rural poverty, and a healthcare system with limited reach (Chigbo, 2025; Udama, 2013: 357). The lessons from the comparative analysis must be utilized to address these realities.

- The government should implement a low, specific excise tax (e.g., per gram) rather than a high ad valorem tax. The primary goal of the initial phase must be affordability for patients and competitiveness against the illicit market. Revenues can be scaled up as the legal market becomes established.
- To avoid creating a corporate cannabis monopoly, Nigeria should develop a multi-tiered licensing system. This would include micro-cultivation licenses for smallholder farmers, particularly in regions like Ondo State where cannabis is traditionally grown. This approach can lift rural communities out of the illicit economy and foster broad-based economic inclusion.
- The list of qualifying medical conditions should be developed in consultation with Nigerian medical professionals and should be sufficiently comprehensive. The model should allow for dispensaries attached to licensed pharmacies and hospitals, and explore telemedicine consultations for patient authorization to overcome geographic barriers.
- A nationwide campaign is needed to educate the public on the difference between medical and recreational use, the legal framework, and the risks of the unregulated illicit market. This will help build trust in the legal system.

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- e) The NDLEA's role must evolve from a purely prohibitionist stance to that of a regulator and market guardian. Enforcement resources should be strategically redirected from targeting individual patients and small-scale farmers towards dismantling large, violent criminal organizations that refuse to enter the legal system and continue to engage in other illicit activities. The focus should be on protecting the legal market from illicit infiltration.
- f)

## Conclusions

The global experiment with cannabis legalization offers Nigeria a priceless gift: the ability to learn from the triumphs and travails of others. The persistence of illicit markets in Canada, the Netherlands, and the United States is not an argument against legalization; it is a powerful testament to the importance of getting the details of legalization right.

The evidence is clear and unanimous across all three case studies: illicit providers thrive where legal frameworks are expensive, exclusionary, inaccessible, and inefficient. They are nimble competitors who adapt to consumer demand and regulatory gaps with entrepreneurial zeal. For Nigeria, the path forward is to design a medical cannabis program that is, from its inception, more attractive than the illicit alternative. This means prioritizing affordability through smart taxation, inclusion through accessible licensing, convenience through thoughtful market access, and clarity through a consistent national policy.

By adopting a deliberate, evidence-based, and patient-focused approach, Nigeria can avoid the pitfalls that have sustained illicit markets elsewhere. It can harness the potential of medical cannabis to provide relief to its citizens, create legitimate economic opportunities, and strike a decisive blow against the criminal networks that have long profited from prohibition. The goal is not merely to create a legal market, but to ensure it is the *only* market that matters.

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