

August 16th 2019

**Medical Cannabis and De-penalisation
A Step in the right Direction**

Introduction

“Me na go ah jail fe ganja no more.” -Peter Tosh

These explicit lyrics of Peter Tosh were part of his “Nah Go ah Jail” song released thirty-two years ago in 1987. Since the establishment of an independent state of St. Vincent and the Grenadines to recent times, it was an indictable offence to possess 15 grammes or less of cannabis, punishable by a jail term of ten years. It was in October 2013 during an interview with British journalist Stephen Gibbs, our Prime Minister, Dr Ralph Gonsalves posited that “SVG’s policy on drugs must move with the times and that it made no sense arresting and imprisoning someone for having a spliff or small quantities of marijuana in their possession.”

This statement translated into a serious commitment when in 2015 elections the ULP administration announced the pledge to establish a Medical Cannabis Industry in St. Vincent and the Grenadines. As such, traditional marijuana farmers no longer took on the risk, including imprisonment, for the cultivation of marijuana for medicinal purposes. However, the move to reform our drug policy had to be done within the four walls of international law and related treaties that we are signatory to.

The strategy is to pursue reform of our marijuana laws so as to legalize cannabis for medicinal and research purposes, while depenalizing/ reducing penalties for possessing small quantities of cannabis to a summary/ ticket offence.

Hence, the government passed a series of laws related to not only the establishment of Medical Cannabis Industry, but also an Amnesty Act in December 2018. The ULP administration went a step further last month in passing a historic Bill, that resulted in the depenalization of the possession of 56 grammes/ two ounces of cannabis. The amendment of the draconian law(Drug Prevention of Misuse Act) which saw the imprisonment of many of our youths simply for the possession of small quantities of cannabis, will finally be a thing of the past.

What made this Act draconian? The mere fact that under such a law, once you were caught with 15 grammes or less of marijuana, it was seen as an arrestable offence, resulting in a penalty of imprisonment of up to ten years, but no less than five years, and a maximum fine of \$100,000. This was the case because, under this law, the possession of fifteen grammes was seen as the intent to sell marijuana to another for trafficking purposes.

Where are we now?

With the passage of the Drug Prevention of Misuse Amendment Act in July, it meant that the possession of 56 ounces of marijuana or less, will no longer be seen as an indictable offence (imprisonable) but that of a summary offence (less serious crime). The new Act imposes penalties such as a maximum fine of up to five hundred dollars once in breach of it, or a maximum fine of eighty dollars if caught smoking marijuana in a public place. The act also makes it illegal to smoke marijuana in any place or building, used by the public including educational institutions.

Other imposed penalties are counselling, rehabilitation and the reading of an educational pamphlet on harmful use/abuse of cannabis. This creative piece of legislation was crafted based on a loophole that exists within the Convention Treaty on Narcotic Drugs 1961, where under Article 36, it does not directly require criminalization of possession of cannabis, except only in the cases of serious offences.

The 1971 amendment to the Article grants nations the discretion to substitute "treatment, education, after-care, rehabilitation and social reintegration" for criminal penalties, if the offender is a drug abuser. Therefore, while it is still illegal, the imposed penalties are reduced, where no one will be arrested, neither imprisoned nor have a criminal record, even if found in breach of the Act.

It is worthy to note that those found in breach of the Act, whether possessing 56 grammes or less of marijuana, or smoking in public, will be given the opportunity to "own up to the offence" committed.

This will be done by discharging their liability to the police officer, by stating that they indeed have cannabis of a small quantity on their person or did smoke in public. They will be handed an educational pamphlet or recommended for counselling/ rehabilitation.

However, if they don't "own up to the offence" then they will be taken to the Magistrate Court, and could pay a fine no more than five hundred dollars if found guilty of being in possession of 56 grammes or less, or eighty dollars if found guilty of smoking in public place.

Moreover, the government has also ensured that the criminal records of those who were imprisoned for possessing small quantities of cannabis are exonerated.

The NDP's Wrong Approach on the Matter

The New Democratic Party has called for partial legalization and for allowing persons to plant up to four plants in their backyard. This is not only be irresponsible but also reckless. Why? First of all, there is no doubt that this will breach the very Act passed in Parliament, and will also result in a breach of the international laws and treaties on Narcotic Drugs.

It will be embarrassing for SVG who also headed the United Nations Economic and Social Council at the time, and ensuring that other member states comply with these drug treaties, to be in breach of the very treaty we are urging others to comply. It would have resulted in

an international backlash and the removal of SVG as head of such an important institution of the United Nations.

Conclusion

St. Vincent and the Grenadines has seen not only the removal of draconian marijuana laws that robbed many youths of an opportunity to seek work or having a real future, but also we have seen where many traditional farmers, hundreds of them across SVG, are taking advantage of the opportunity given to engage in a formal economic activity without severe risk.

We continue to work on behalf of the poor and working-class, and we believe that this is the right step forward, to ensuring that no one will ever be arrested, imprisoned or have a criminal record, for simply possessing small quantities of cannabis.